

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

LINDA LENZI, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

L.L. BEAN, INC.,

Defendant.

Civil Action No.: 6:23-cv-06117-FPG

**DECLARATION OF JOSEPH N.
KRAVEC, JR. IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANT L.L. BEAN, INC.'S
MOTION TO DISMISS**

DECLARATION OF JOSEPH N. KRAVEC, JR.

I, Joseph N. Kravec, Jr., hereby declare as follows:

1. I am a partner in the law firm of Feinstein Doyle Payne & Kravec, LLC, attorneys for Plaintiff Linda Lenzi and the proposed class and sub-class in this action. I am submitting this declaration in support of Plaintiff's opposition to Defendant L.L. Bean, Inc.'s ("L.L. Bean") Motion to Dismiss. This declaration is based on my personal knowledge.

2. On April 21, 2022, I, along with my co-counsel Antonio Vozzolo of Vozzolo LLC, sent a pre-suit notice and demand letter via certified mail, return receipt requested to L.L. Bean on behalf of Plaintiff Linda Lenzi and a potential nationwide class and New York sub-class of similarly situated consumers for L.L. Bean's false and misleading conduct set forth in the Class Action Complaint ("Complaint") filed in this action. A true and correct copy of this pre-suit notice and demand letter, without the exhibits attached thereto, is attached hereto as **Exhibit 1**.

3. In the letter, I, on behalf of Plaintiff, demanded that L.L. Bean refrain from marketing, labeling and selling the boots at-issue in this action as “waterproof” and that L.L. Bean pay damages and restitution to Plaintiff as well as to all other putative class members.

4. I also provided my law office’s address and telephone number, my email address and my co-counsel’s law firm name in the letter so that L.L. Bean, or its authorized representative, could contact me or my co-counsel to discuss the false and misleading “waterproof” labeling on L.L. Bean’s boots, particularly the Women’s Storm Chaser Boots Plaintiff Linda Lenzi purchased, and to attempt to resolve the demands made therein.

5. My law office received return receipts, signed and dated April 25, 2022, for the pre-suit notice and demand letter signifying that L.L. Bean did receive the letter. True and correct copies of the return receipts are attached hereto as **Exhibit 2**.

6. Despite receiving the pre-suit notice and demand letter, neither me nor my co-counsel received any communications from L.L. Bean concerning the issues raised in the letter.

7. After receiving no response from L.L. Bean for more than nine months, my co-counsel and I filed the Complaint in this action on behalf of Plaintiff Lenzi, a proposed nationwide class and a proposed New York sub-class on February 17, 2023. *See* Dkt. 1. On that same day, the Court automatically referred this case to mediation.

8. After filing the Complaint, the parties started to engage in informal settlement discussions to try to resolve this action.

9. During these informal settlement discussions, L.L. Bean’s counsel, Stephanie Sheridan, advised me that she had attempted to call either myself or my co-counsel regarding the issues raised in the pre-suit notice and demand letter prior to Plaintiff filing the Complaint, but

received no response. Neither my law office nor my co-counsel's law office has any record of Ms. Sheridan's one attempted telephone call.

10. On April 26, 2023, L.L. Bean's counsel, Meegan Brooks, emailed me and my co-counsel asking for Plaintiff Lenzi's proof of purchase information because L.L. Bean was unable to "locate Plaintiff's purchase[.]" Ms. Brooks further stated in her email that providing this information "would help move the ball along as we're exchanging information." A true and correct copy of this email can be found on pages 4 and 5 of **Exhibit 3** attached hereto.

11. On May 4, 2023, Ms. Brooks sent me and my co-counsel another email stating, "we'll need to see a proof of purchase before we'd recommend that our client share anything else" as part of the informal settlement discussions. A true and correct copy of this email can be found on page 4 of **Exhibit 3** attached hereto.

12. On May 8, 2023, I responded to Ms. Brooks' April 26, 2023 and May 4, 2023 emails. A true and correct copy of my May 8, 2023 email response can be found on pages 3 and 4 of **Exhibit 3** attached hereto. In my May 8, 2023 email to Ms. Brooks and Defendant's other co-counsel, I indicated that a threshold issue for Plaintiff to any settlement is that L.L. Bean publicly notify all consumers of the mislabeled "waterproof" boots identified in the Complaint that they may return the boots to get a full refund. *See* Exh. 3 at 3. I acknowledged that Ms. Brooks had previously advised me that L.L. Bean is unwilling to provide any consumer facing notification concerning the ability to receive a refund for the mislabeled "waterproof" boots. *Id.* I further advised that, if the consumer notification issue cannot be resolved, Plaintiff does not see an individual settlement being amenable at this time. *Id.* Importantly, however, I stated that, "[i]f we can resolve this issue, **we are willing to exchange information about Plaintiff's purchase as long as LL Bean commits to give us the unit sales numbers we previously requested.**" *Id.*

(emphasis added). I did not “decline to provide the requested proof of purchase, or any additional information about Plaintiff’s alleged purchase” as Ms. Brooks stated in her declaration in support of Defendant L.L. Bean, Inc.’s Motion to Dismiss (“Brooks Declaration”). *See* Dkt. No. 10-3, ¶ 6.

13. At 11:18 P.M. on May 8, 2023, I received an email response from Ms. Brooks to my May 8, 2023 email. A true and correct copy of Ms. Brooks’ response can be found on page 2 of **Exhibit 3** attached hereto.

14. In her response, Ms. Brooks did not address the consumer notification or the unit sales issues. Instead, Ms. Brooks stated that, “since [Plaintiff’s proof of purchase] is a threshold issue completely separate and apart from our settlement discussions, it must, necessarily, be addressed first.” *See* Exh. 3 at 2. Ms. Brooks again asked if Plaintiff has a “proof of purchase” and demanded Plaintiff “send it immediately” to L.L. Bean. *Id.*

15. On May 9, 2023, I emailed Ms. Brooks and Defendant’s other counsel to respond to Ms. Brooks’ May 8, 2023 email. A true and correct copy of my May 9, 2023 email response can be found on page 1 of **Exhibit 3** attached hereto.

16. In my May 9, 2023 email, I reiterated that Plaintiff is willing to exchange information about her purchase as long as L.L. Bean commits to providing Plaintiff with its unit sales numbers Plaintiff previously requested and the parties can resolve the consumer refund notification issue. *See* Exh. 3 at 1. I then suggested the parties, with the help of a mediator, may be able to move toward a resolution of these issues so that a mutual exchange of information is possible. *Id.* I noted that the Court has already referred this case to mediation. *Id.* I asked Ms. Brooks to “[p]lease let us know what LL Bean wants to do” about whether it wants to conduct a mediation before or after the Court rules on any motion to dismiss filed by L.L. Bean. *Id.* Again, I

did not decline to provide L.L. Bean with Plaintiff's purchase information as stated in the Brooks Declaration. *See* Dkt. 10-3, ¶ 8.

17. L.L. Bean's counsel never responded to my May 9, 2023 email. Instead, on May 15, 2023, L.L. Bean filed the Motion to Dismiss currently before the Court.

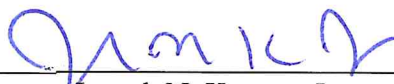
18. To date, Plaintiff has not received the unit sales information she requested, and L.L. Bean has not stated whether it would work with Plaintiff to resolve the consumer refund notification issue.

19. Attached hereto as **Exhibit 4** is a true and correct copy of an article printed from Yahoo! News at <https://news.yahoo.com/inside-l-l-bean-200-171438625.html>, by Glenn Taylor from Sourcing Journal, entitled *Inside L.L.Bean's 200,000 Ship-From-Store Peak Season*, dated May 26, 2022.

20. Attached hereto as **Exhibit 5** is a true and correct copy of a statement appearing on llbean.com entitled "Our COVID-19 Response (UPDATED)," dated March 16, 2020, printed from <https://www.llbean.com/llb/shop/518090?page=newsroom-covid-19-update-march-2020>.

21. Attached hereto as **Exhibit 6** is a true and correct copy of an article printed from WXXI News at <https://www.wxxinews.org/business/2020-03-18/area-malls-closing-due-to-coronavirus-containment-efforts>, by Randy Gorbman, entitled *Area malls closing due to coronavirus containment efforts*, dated March 18, 2020.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 30, 2023.



Joseph N. Kravec, Jr.

EXHIBIT 1



429 Fourth Avenue
Law & Finance Building, Suite 1300
Pittsburgh, PA 15219
T: 412.281.8400
F: 412.281.1007

29 Broadway, 24th Floor
New York, NY 10006-3205
T: 212.952.0014
www.fdpklaw.com

Writer's Email:
jkravec@fdpklaw.com

April 21, 2022

via Certified Mail/Return Receipt Requested

L.L. Bean, Inc.
c/o George S. Isaacson
P.O. Box 3070
Lewiston, ME 04343-3070

Stephen Smith
President and CEO
L.L. Bean, Inc.
15 Casco Street
Freeport, ME 04033

L.L. Bean International
c/o Michael K. Mahoney
10 Casco Street
Freeport, ME 04033

Michael K. Mahoney
Chief Legal & Compliance Officer
L.L. Bean, Inc.
15 Casco Street
Freeport, ME 04033

Re: *Pre-Suit Notice and Demand Pursuant to the Consumer Fraud Laws of the Various States Regarding L.L.Bean "Waterproof" Boots*

Dear Mr. Smith and Mr. Mahoney:

We, along with attorney Antonio Vozzolo of Vozzolo LLC, represent Linda Lenzi and, potentially, a class of nationwide consumers and/or a class of New York consumers who purchased L.L.Bean brand "waterproof" boots that feature non-waterproof, non-gusseted zipper closures and/or lack a gusseted tongue (collectively, the "Products" or "Mislabeled Boots").¹ This letter serves as notice and demand for corrective action arising from your breaches of warranties, and is meant to comply with the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301, *et seq.*, New York Uniform Commercial Code ("N.Y. UCC") § 2-313 and N.Y. UCC § 2-314, and the laws requiring pre-suit demand and notice, on behalf of our client and any additional "plaintiffs" should this

¹ Upon information and belief, the Mislabeled Boots include, but are not limited to the boots listed in Exhibit 1. To the extent that the Company manufactures additional zippered boots and/or non-gusseted boots similarly misbranded as being "waterproof" as described herein, such Mislabeled Boots are also unlawfully, falsely, and misleadingly labeled and marketed in violation of New York law as well as the laws of all other states for breach of warranty and unjust enrichment and are hereby included in this demand letter. To the extent that the Company contends that any of the Mislabeled Boots included herein are constructed with a truly waterproof zipper and/or a full waterproof gusset and are otherwise actually waterproof, please provide us with your substantiation so we may consider excluding such products from our demand or any lawsuit.

matter proceed to litigation. All communications intended for our client must be directed through this office.

L.L. Bean, Inc. and/or L.L. Bean International (together, the “Company” or “L.L.Bean”)² have engaged in a widespread uniform labeling and marketing campaign designed to convince consumers that the Mislabeled Boots are “waterproof,” when in fact they are not. Moreover, the Company’s misrepresentations regarding the waterproof attribute are unequivocal, and do not contain any qualifying language or disclaimers. Yet, it was only in response to a complaint regarding water leakage buried on the Company’s website in a consumer blog sub-page that L.L. Bean conceded that the Products are not waterproof stating “the zippers on these boots are not waterproof. The boots are waterproof up to the zipper base.” A screen shot of the admission is reproduced below:



January 1, 2020

Not Waterproof

Size Purchased: 13

Fit - Length: Slightly small

Fit - Width: Slightly narrow

Not waterproof zipper lets water inside shoe. Wear like a tennis shoe very comfy. Useless boot if it can't keep feet dry.

Response from L.L.Bean

By L.L.Bean Customer Satisfaction Team

January 4, 2020

We are sorry that the boots didn't perform as you expected. The zippers on these boots is not waterproof. The boots are waterproof up to the zipper base. You are more than welcome to return the boots to us.

As discussed below, these “waterproof” misrepresentations and express warranties have been disseminated in a prolonged, multiplatform advertising and marketing campaign in several forms of media and on labels or the products themselves, including but not limited to, catalogues, internet media, and/or social media. Moreover, each and every proposed class member was necessarily exposed to the Company’s marketing and advertising, as the uniform “waterproof” representation was located (among other places) at the point of purchase and/or on the Mislabeled Boots themselves.³

² L.L.Bean also includes but is not limited to any parent(s), affiliate(s), and/or subsidiaries of L.L. Bean, Inc. or L.L. Bean International.

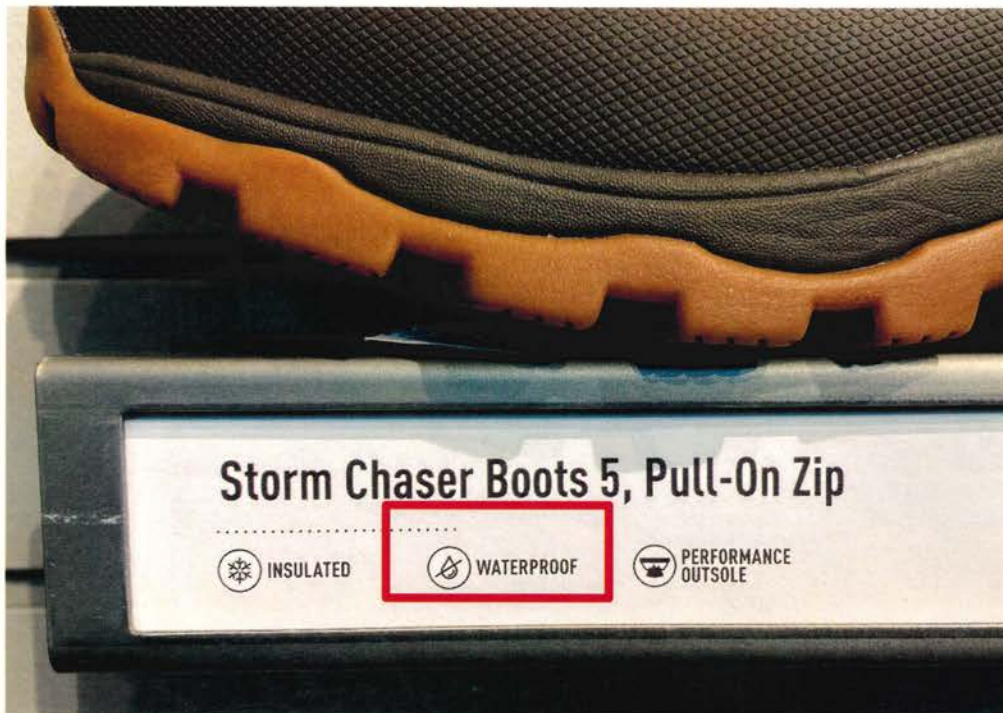
³ This is significant as most sales occur through the Company’s direct-to-consumer business model, its e-commerce site, and through Company owned stores.

I. The Mislabeled Boots are Labeled and Marketed as “Waterproof”

a. Labeling and Point of Purchase

The Company includes an express warranty that the Mislabeled Boots are “**Waterproof**” by uniformly including the “WATERPROOF” statement and attribute (along with a waterproof symbol) on channel or shelf strips adjacent to each boot it claims to be waterproof. For example, below are images of L.L. Bean’s Storm Chaser Boots, prominently marketed and labeled as “WATERPROOF” on shelving displays at the Company’s retail locations, without any disclaimer regarding the Product’s non-waterproof, non-gusseted side-zipper:



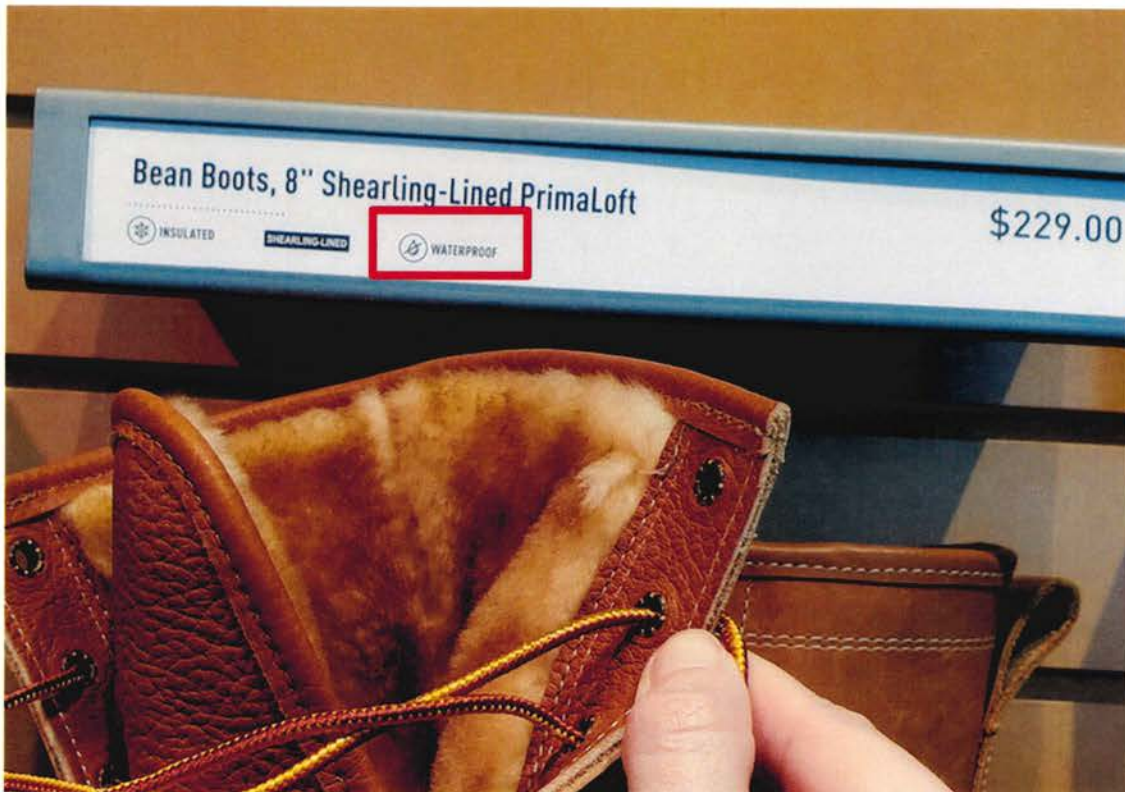


As noted above, the Company utilizes virtually identical display shelving for the Products and waterproof footwear in general. Below are illustrations/samples of the uniform displays utilized by the Company as well as the specific label included on the in-store display for L.L. Bean's Women's Shearling-Lined Bean Boots, despite the Product's lack of gusseted tongue, as shown below:

Stephen Smith, President and CEO
Michael K. Mahoney, Chief Legal & Compliance Officer
L.L. Bean, Inc. & L.L. Bean International
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Stephen Smith, President and CEO
Michael K. Mahoney, Chief Legal & Compliance Officer
L.L. Bean, Inc. & L.L. Bean International
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Various Products are also labeled with the “WATERPROOF” representation and warranty on the Product itself and/or on their insole as demonstrated below:

Men’s Storm Chased Side Zip Boots-Ballistic Mesh

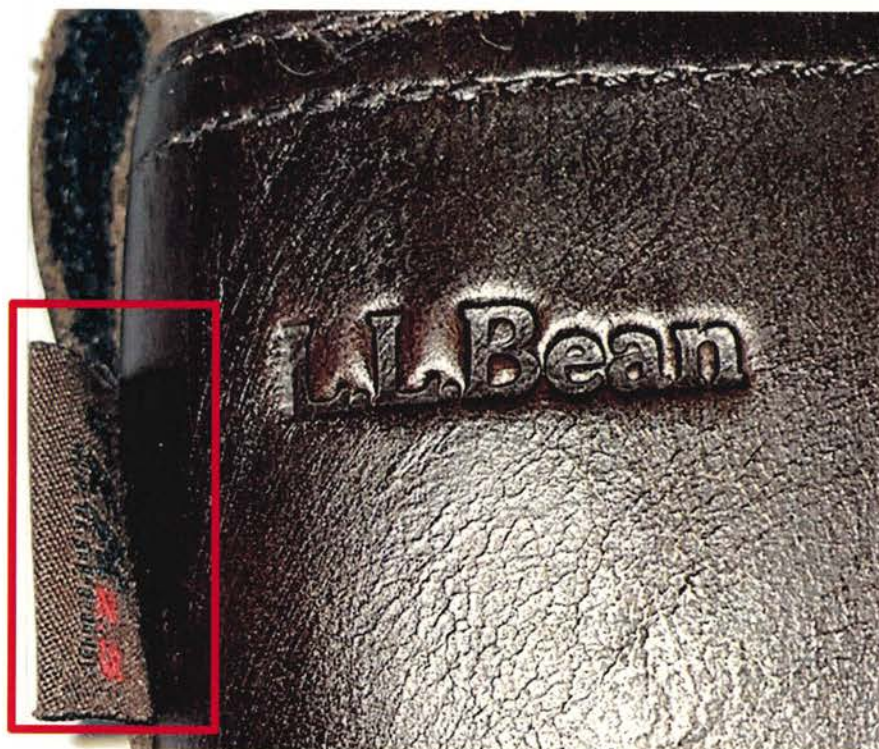


Stephen Smith, President and CEO
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Women's Carrabassett Boots



Stephen Smith, President and CEO
Michael K. Mahoney, Chief Legal & Compliance Officer
L.L. Bean, Inc. & L.L. Bean International
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The Storm Chaser Boots (insole)



Women's Carrabassett Boot (insole)



Furthermore, in-store or point of purchase displays at the Company's retail locations highlight the Mislabeled Boots' purported "waterproof" qualities. Specifically, the point of purchase display bears representations and warranties that the Mislabeled Boots are "**Waterproof & Breathable**," provide a "**waterproof/breathable barrier**" that "**keeps feet dry**" through winter storms, and are suitable for "Rugged Winter." Photographs of the display (and closeups) are provided below:





b. Representations and Warranties Made on the Company's Website and Social Media Platforms

L.L. Bean's "waterproof" representations and warranties are also repeated on the Company's consumer-oriented website at <https://www.llbean.com>. For example, the Company highlights its history of making winter boots for over 100 years and promises to keep customers' feet "Warm and Dry," stating, "We know it's hard to enjoy a winter day with cold, wet feet. That's

Stephen Smith, President and CEO
Michael K. Mahoney, Chief Legal & Compliance Officer
L.L. Bean, Inc. & L.L. Bean International
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why we use the most advanced technology available to develop exceptionally toasty and dry winter boots.”⁴ Screenshots of the representations and warranties are provided below:

Your Source for Warm Toes

We've been making warm winter boots for over 100 years. This year we've designed and tested our best lineup of winter boots ever. Explore the categories below to find the right boots for you.

SHOP MEN'S

SHOP WOMEN'S

SHOP KIDS'

Innovation That Keeps Your Feet Warm and Dry

We know it's hard to enjoy a winter day with cold, wet feet. That's why we use the most advanced technology available to develop exceptionally toasty and dry winter boots.

The L.L. Bean website also highlights its “**TEK2.5 WATERPROOF SYSTEM**,” an “exclusive technology” that “creates a **waterproof . . . barrier** that will keep your feet warm and dry all winter.” This webpage also includes images of a waterproof logo and screenshots of the waterproof barrier being tested:⁵

TEK2.5 WATERPROOF SYSTEM
Our exclusive technology creates a waterproof, windproof and breathable barrier that will keep your feet warm and dry all winter.

[SHOP TEK2.5 FOOTWEAR](#)



BREATHABLE



WATERPROOF



Further, this webpage includes a hyperlink directing consumers to “SHOP TEK2.5 FOOTWEAR,” which leads to a new window or page displaying 46 products claiming to offer the “**Tek Waterproof System**.”⁶ A screenshot of the new window is provided below:

⁴ See <https://www.llbean.com/llb/shop/517436?page=winter-boots-guide> (emphasis added).

⁵ See *id.*

⁶ <https://www.llbean.com/llb/search/?freeText=Tek%20Waterproof%20System%20Footwear&nav=F8tX-517436>

Products (46) Info & Stories (1)

Filter By: **Tek Waterproof System Footwear** 46 Items


Department ☐ Sort by: Recommended


☐ Footwear (46)
☐ Outdoor Equipment (2)
☐ Sale (17)


Category ☐


☐ Hunting (2)
☐ Kids' (9)
☐ Men's (19)
☐ Women's (18)

Size Range ☐
Shoe Size ☐
Features ☐
Collection ☐
Color ☐


Women's North Peak Waterproof Trail Shoes
\$119
★★★★★ 162


Kids' Ultralight Waterproof Snow Boots, Tall
\$89
★★★★★ 57


Women's Ultralight Waterproof Pac Boots
\$429 \$109
★★★★★ 176


Women's Insulated Commuter Boots, Mid Lace-Up
\$449 \$79.99
★★★★★ 60

When consumers shop for boots on L.L.Bean's website, the Company provides filters enabling customers to restrict their search results to two distinct categories of water protection – “Waterproof” and “Water-Resistant,” as shown in the two screenshots below:

Men's Boots:

☐ Rubber Sole (55)
☐ Scent Control (3)
☐ Shearling-Lined (3)
☐ Ventilated (5)
☐ Warm (13)
☒ Waterproof (74)
☐ Water-Resistant (11)
☐ Made in USA (21)
☐ Speedlace (5)
☐ VertiGrip (2)

Shoe Style ☐
Suggested Use ☐
Warmth Rating ☐
Color ☐
Price ☐



Men's Gore-Tex Cresta Hiking Boots, Leather
\$279
★★★★★ 674



Men's 8" Bean Boots, Chamois-Lined
\$159
★★★★★ 201



Men's Storm Chaser Boots 5, Pull-On Zip
\$139
★★★★★ 487


Women's Boots:


☐ Rubber Sole (92)
☐ Shearling-Lined (16)
☐ Synthetic (6)
☐ Ventilated (15)
☐ Vibram (7)
☒ **Waterproof (64)**
☐ Water-Resistant (19)
☐ Made in USA (58)
☐ VertiGrip (7)
Shoe Style +
Suggested Use +
Warmth Rating +
Color +
Price +



QUICK VIEW
Women's Rangeley Waterproof Pac Boots, Ankle Insulated
\$114-\$139
★★★★★ 210


QUICK VIEW
Women's Bean Boots, 8" Shearling-Lined PrimaLoft
\$229
★★★★★ 769


QUICK VIEW
Women's Signature Wicked Good Bean Boots, 10"
\$199-\$249
★★★★★ 221


QUICK VIEW
Women's Bean Boots, 8"
\$139
★★★★★ 1144


QUICK VIEW
Women's Storm Chaser Boots 5, Zip
\$129
★★★★★ 84


QUICK VIEW
Women's Bean Boots, 7" Chelsea
\$139
★★★★★ 247

Again, L.L.Bean represents and warrants its Women's Shearling-Lined Bean Boots and other Products that lack a gusseted tongue as "waterproof":

☐ Moisture Wicking (25)
☐ Quick-Dry (7)
☐ Removable Liner (2)
☐ Rubber Outsole (11)
☐ Rubber Sole (98)
☐ Shearling-Lined (16)
☐ Synthetic (6)
☐ Ventilated (16)
☐ Vibram (7)
☒ **Waterproof (70)**
☐ Water-Resistant (21)


QUICK VIEW
Women's Bean Boots, 6" Sherpa-Lined PrimaLoft
\$169
★★★★★ 155


QUICK VIEW
Women's Rangeley Waterproof Pac Boots, Ankle Insulated
\$114-\$139
★★★★★ 215


QUICK VIEW
Women's Bean Boots, 8" Shearling-Lined PrimaLoft
\$229
★★★★★ 174


QUICK VIEW
Women's Signature Wicked Good Bean Boots, 10"
\$199-\$249
★★★★★ 224

The L.L.Bean website also highlights the "waterproof" features on the individual product pages for each of the Mislabeled Boots. For example, the Company's webpage for the Men's

Stephen Smith, President and CEO
Michael K. Mahoney, Chief Legal & Compliance Officer
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Storm Chaser Boots 5, Pull-on Zip is replete with representations and warranties referencing the Products' purported "waterproof" features, including:⁷

- "Redesigned from the top down, with a richer leather that's **waterproof**, stain and salt resistant."
- "[O]ur Men's Storm Chaser Pull-On Boots **perform like high-tech waterproof boots . . .**"
- "NEW **Waterproof** Nor'easter full-grain nubuck leather."
- "**Lined with waterproof 200-gram PrimaLoft® . . .**"
- "Molded toe bumper and **waterproof heel counter for enhanced protection.**"
- "**TEK2.5® waterproof, breathable membrane inner lining.**"
- "**TEK2.5 WATERPROOF SYSTEM**"
- "Multiple layers of performance: . . . **Waterproof/windproof/breathable barrier**"

Screenshots of the individual product page for the Men's Storm Chaser Boot 5, Pull-on Zip are provided below:⁸

⁷ See <https://www.llbean.com/llb/shop/123214?page=mens-storm-chaser-boot-5-pull-on-zip-mens> (emphasis added).

⁸ *Id.*

L.L.Bean > Footwear > Men's > Boots **Waterproof** 

Men's Storm Chaser Boots 5, Pull-On Zip

★★★★★ [489 Reviews](#) | [Write a Review](#)



Product Details

Redesigned from the top down, with a richer leather that's **waterproof**, stain and salt resistant. These winter boots also feature breakthrough SolarCore insulation technology for low weight and maximum insulating power.

Size & Fit

- Order regular shoe size. For half sizes not offered, order up to next whole size.

Specs

- Weight: Approx. 2 lb. 15 oz. per pair.

Why We Love Them

Redesigned to be sleeker and lighter, our Men's Storm Chaser Pull-On Boots **perform like high-tech waterproof boots** — but with the comfort of sneakers. The rubber hair shear and cushioned EVA midsole add flexibility and are built from the same materials used in top-of-the-line walking and running shoes

Construction

- **NEW Waterproof Nor'easter full-grain nubuck leather**
- Lined with **waterproof 200-gram PrimaLoft®** for extraordinary warmth in colder weather.
- SolarCore insulation on lasting board for warmth without the weight.
- Mesh padded collar for comfort.
- EVA-molded midsole and footbed provide athletic-shoe comfort.
- Molded toe bumper and **waterproof heel counter** for enhanced protection.
- Siped rubber outsole features multilugged tread for slick, slippery surfaces.
- **TEK2.5® waterproof, breathable membrane inner lining.**

Additional Features

- Leather pull-on loop on back and front collar for easy on/off.
- Imported.

Item #: TA507166



L.L.Bean's individual webpage for the Women's Storm Chaser Boots 5, Zip makes substantially similar representations and warranties regarding the Product's purported "waterproof" qualities, including:⁹

- "Our Storm Chaser . . . provid[es] the waterproof protection of rubber boots . . ."
- "The full-grain-leather upper is waterproof . . ."
- "A TEK2.5® lining keeps feet dry."
- "Waterproofed full-grain-leather upper and exclusive TEK2.5® waterproof membrane keep feet dry."
- "TEK2.5 WATERPROOF SYSTEM"
- "Multiple layers of performance: . . . Waterproof/windproof/breathable barrier"

These representation and warranties are highlighted in the following screenshots of the individual product page:¹⁰

⁹ See <https://www.llbean.com/llb/shop/123140?page=strom-chaser-boots-zip-5-womens> (emphasis added).

¹⁰ *Id.*

L.L.Bean > Footwear > Women's > Waterproof

Women's Storm Chaser Boots 5, Zip



[84 Reviews](#) | [Write a Review](#)



We updated the Women's Storm Chaser winter boots with a new lightweight construction and improved comfort. They also feature breakthrough SolarCore insulation technology for low weight and maximum insulating power.

Size & Fit

Customer Fit Feedback

- Order regular shoe size. Size 10 1/2 wearers, order size 11.
- Suggested sock: Midweight.

Specs

- Weight: Approx. 1 lb. 9 oz. per pair.
- Shaft Height: Approx. 6 1/2".

Why We Love Them


Our Storm Chaser has a great fit, while still providing the waterproof protection of rubber boots and the comfort of sneakers. The full-grain-leather upper is waterproof and stain resistant. ~~SolarCore insulation technology provides maximum insulating power at a low weight.~~ The rubber half shell and cushioned EVA midsole add flexibility and are built from the same materials used in walking and running shoes. A TEK2.5® lining keeps feet dry.

Construction

- Waterproofed full-grain-leather upper and exclusive TEK2.5® waterproof membrane keep feet dry.
- Soft nylon padded collar for comfort.
- Synthetic mesh fabric lining for moisture management and fast drying.
- Soft cozy fleece collar lining for warmth and comfort.
- Molded EVA midsole to cushion and support.
- 200-gram PrimaLoft® polyester insulation.
- Covered polyurethane foam innersole with NXT for odor management.
- Siped rubber outsole constructed with multilugged tread for a strong grip on wet or icy surfaces.
- Imported.

Item #: TA507153

[Return Policy](#)

 Questions? [Chat with an Expert](#)



Similarly, the individual product page for the Men's Storm Chaser Side-Zip Ballistic Mesh boot states the product "waterproof construction" and a "Waterproof and breathable TEK2.5® lining keeps feet dry." Screenshots of specific webpage are provided below:¹¹

¹¹ <https://www.llbean.com/llb/shop/121311?page=mens-storm-chaser-side-zip-boot-4-ballistic-mesh-mens>


Men's Storm Chaser Side-Zip Boots, Ballistic Mesh



Product Details

Our do-it-all winter boots feature waterproof construction, warm Primaloft Insulation, superior traction and superlight yet unbelievably strong ballistic mesh. From tough terrain to rough weather, they'll have you covered no matter what.

Size & Fit

 [Customer Fit Feedback](#)

- Order regular shoe size. (For half sizes not offered, order up to next whole size).
- Fit best with midweight socks.

Specs

- Approx. Weight: 2 lb. 8 oz. per pair.

Why We Love It

Our ultracomfortable Storm Chasers combine all the best features of our favorite footwear: the waterproof protection of rubber boots, the warmth of snow boots, the cushioned comfort of sneakers and arch support. Waterproof SolarCore aerogel delivers serious thermal power in one of the thinnest packages on the market. It's proven not to lose warmth when wet or compressed, which is why it's added above the sole of the shoe.


Construction

- Upper is made from waterproof ballistic nylon mesh for unparalleled durability.
- Molded EVA midsole works to cushion and support.
- Waterproof and breathable TEK2.5® lining keeps feet dry.
- 200-gram Primaloft® insulation for added warmth.
- Rubber outsole is aggressively lugged and grooved for superior traction on wet surfaces.
- Molded TPU toe bumper for durability and protection.

Additional Features

- Contoured innersole provides good arch support.
- Roomy toe box for extra comfort.
- Long side zipper for easy on/off.
- Imported.

[Return Policy](#)

 [Questions? Chat with an Expert](#)

The individual webpage for the Women's Snowfield Waterproof Boots similarly misrepresents its "waterproof" attribute, in addition to including in attribute in the name of the Product itself. Screenshots of the Company's online representations and warranties are below, including claims that the boots feature a "**waterproof membrane**" and "**barrier**" against water that "**keeps feet dry in slush and snow**".¹²

L.L.Bean > Footwear > Women's > **Waterproof**

Women's Snowfield **Waterproof** Boots, Tall Insulated

★★★★★ [64 Reviews](#) | [Write a Review](#)



¹² See <https://www.llbean.com/llb/shop/124676?page=womens-snowfield-boot-tall-waterproof-insulated-womens> (emphasis added).

Construction

- Quilted nylon mesh upper with a water-resistant treatment keeps feet dry in snow and slush.
- Synthetic faux-fur collar.
- Moisture-wicking fleece lining is also quick drying.
- Contoured dual-density EVA innersole for comfort and support.
- 200-gram PrimaLoft insulation provides exceptional warmth.
- **TEK2.5® waterproof membrane system and moisture-wicking lining keep feet dry in slush and snow.**
- Exclusive Comfort Ride midsole gives great support and rebound.
- VertiGrip rubber-lugged outsole for reliable traction.
- Imported.

Item #: TA510324

Return Policy

 **Questions?** [Chat with an Expert](#)



L.L.Bean's Women's Carrabassett Waterproof Boots are also marketed with representations and warranties that they are "waterproof," including in the Product's name and website description, despite utilizing a non-waterproof zipper running down the length of the boot. The Company claims "**whether it's rain or snow, your feet will be . . . dry . . .**" and again touts the "**TEK2.5 waterproof system**" and "**waterproof . . . barrier**".¹³

¹³ See <https://www.llbean.com/llb/shop/123150?page=carrabassett-boot-12in-zip-waterproof-womens> (emphasis added).

Women's Carrabassett Waterproof Boots, 12" Zip



59 Reviews

[Write a Review](#)



Product Details

Fleece-lined boots that will look great in the worst weather; whether it's rain or snow, your feet will be very comfortable, dry and well supported.

Size & Fit



[Customer Fit Feedback](#)

- Order regular shoe size. Size 10 1/2 wearer, order 11.
- Suggested sock: Midweight.

Specs

- Weight: Approx. 3 lb. per pair.

Construction

- Waterproof full-grain leather upper.
- 12" lateral zipper for easy on/off.
- Lined with cottony-soft polyester fleece for wicking, fast drying and warmth.
- Inner lining treated with our exclusive TEK2.5® waterproof system.
- Toe cap and removable EVA insole insulated with PrimaLoft Aerogel for lightweight warmth.
- Exclusive VertiGrip rubber outsole with chain-tread pattern for excellent stability.

Additional Features

- Hidden elastic gore for stretch.
- Collar pull tab for easy on/off.
- Imported.

Item #: TK507211

Stephen Smith, President and CEO
Michael K. Mahoney, Chief Legal & Compliance Officer
L.L. Bean, Inc. & L.L. Bean International
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L.L.Bean also represents and warrants its Women's Rugged Cozy Boots, Mid Side-Zip as waterproof without any disclaimers regarding the Products' non-waterproof, non-gusseted zippers.¹⁴

Women's Rugged Cozy Boots, Mid Side-Zip

★★★★★ [189 Reviews](#) | [Write a Review](#)



¹⁴ See <https://www.llbean.com/llb/shop/125865?page=womens-rugged-cozy-boot-mid-roll-down-womens>.

Construction

- Premium, **waterproof** full-grain leather and soft suede uppers.
- Cozy fleece lining for warmth and comfort.
- Medial side zipper for easy on/off.
- Our exclusive True Comfort footbed for rebound, cushion and support.
- Rugged Vibram outsole provides great traction on multiple surfaces.
- Imported.

Item #: TA514263

L.L.Bean has also represented and warranted its Women's Park Ridge Casual Boots, Tall as waterproof, even claiming it has a "Waterproof side zip":¹⁵

Women's Park Ridge Casual Boots, Tall



¹⁵ See https://www.llbean.com/llb/shop/118143?page=womens-park-ridge-casual-boots-tall&csp=a&feat=83161-item_page.recsmiddle.

Product Details

These waterproof tall leather boots feature a unique felt-blend back collar that adds an extra touch of style. They'll keep your feet comfortable and dry even when the weather turns wet and cool.

 [Customer Fit Feedback](#)

Specs

- Heel height: 1".
- Shaft Circumference: 14".
- Approx. weight: 2 lb. 6 oz. per pair.

Construction

- Waterproof full-grain-leather upper looks stylish and sheds moisture.
- Acrylic felt panel at back collar for a distinctive look.
- Removable synthetic-covered EVA insole.
- Moderate arch contour on insole.
- Nylon shank.
- Molded rubber outsole with flower-pattern lugged tread.
- Waterproof side zip.
- Adjustable leather strap with metal buckle wraps around upper shaft and instep.
- Imported.

The Company's webpage for the Women's Park Ridge Casual Boots, Mid Product also represents and warrants that it is "waterproof" and made with "waterproof-full-grain-leather upper" without indicating the zipper portion of the upper is not waterproof:¹⁶

Women's Park Ridge Casual Boots, Mid



¹⁶ <https://www.llbean.com/llb/shop/118142?page=womens-park-ridge-casual-boots-mid>

Construction

- Stylish, w **waterproof full** grain-leather upper with wool-blend back shaft panel.
- Soft fleece lining and cushioned footbed for an amazing feel.
- Removable synthetic-covered EVA insole.
- Moderate arch contour of insole for support.
- Molded EVA midsole cushions in all the right places.
- Nylon shank.
- Molded rubber outsole provides all the traction you need.
- 5" zipper at arch side of shaft.
- Imported.

[Return Policy](#)



Questions? [Chat with an Expert](#)

Similarly,
the Company's webpage for the Women's Waterproof Nordic Boots with Arctic Grip represents and warrants that it is "waterproof" and made with "waterproof suede upper" and a "Waterproof

TEK2.5® system [which] keeps feet dry and comfortable”:¹⁷

Women's Waterproof Nordic Boots with Arctic Grip, Suede

★★★★★ [72 Reviews](#) | [Write a Review](#)



¹⁷ https://www.llbean.com/llb/shop/123151?page=nordic-boot-waterproof-nubuck-zp-arctic-grip-womens&bc=474&feat=474-GN0&csp=f&gnrefine=1*BRAND*L.L.Bean%5E1*FTRS*Waterproof&pos=79

Stephen Smith, President and CEO
Michael K. Mahoney, Chief Legal & Compliance Officer
L.L. Bean, Inc. & L.L. Bean International
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Product Details

Nordic style meets serious performance in this waterproof winter boot, featuring nubuck leather, PrimaLoft insulation and Vibram Arctic Grip.

Size & Fit

 [Customer Fit Feedback](#)

- Order regular shoe size. For half sizes not offered, order up to next whole size.
- Suggested sock: Midweight.

Specs

- Weight: Approx. 3 lb. 4 oz. per pair.

Construction

- Waterproof suede upper with faux-fur lining and trim.
- Waterproof TEK2.5® system keeps feet dry and comfortable.
- Extra-warm 100-gram PrimaLoft® insulation.
- EVA foam innersole with faux fur for comfort and warmth.
- Outsole with Vibram Ictrek 2 rubber and Arctic Grip pods for outstanding traction.

Additional Features

- 8" nylon zipper.
- Imported.

Item #: TA507161

L.L.Bean likewise represents and warrants its Shearling-Lined Bean Boots as waterproof without any disclaimer regarding the Product's non-gusseted tongue.¹⁸

¹⁸ See https://www.llbean.com/llb/shop/80722?page=womens-tumbled-leather-llbean-boots-8in-shearling-lined&bc=474-630&feat=630-GN1&csp=f&gnrefine=1*FTRS*Waterproof&pos=11.

L.L. Bean > Footwear > Women's **Waterproof** 

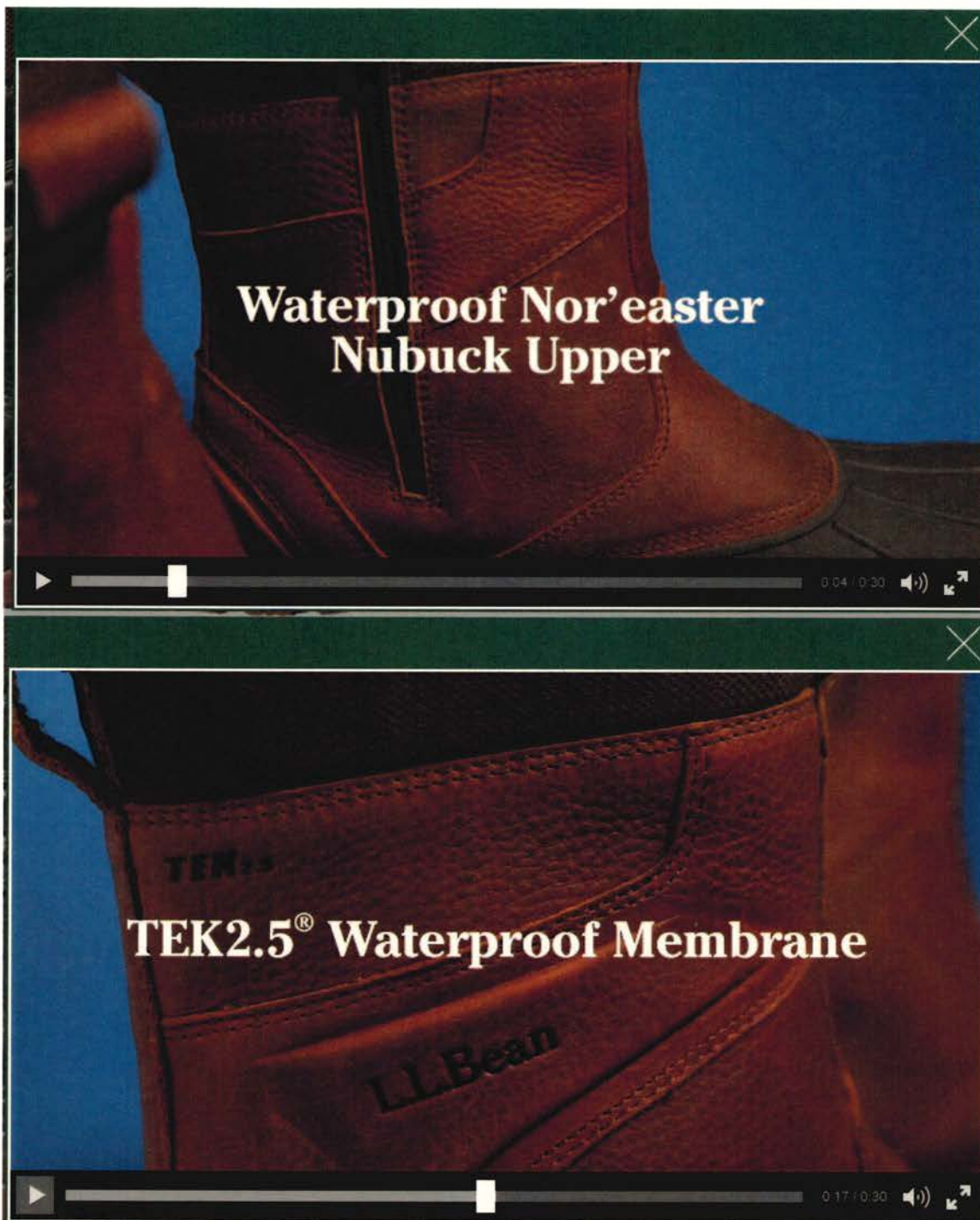
Women's Bean Boots, 8" Shearling-Lined PrimaLoft

★★★★★ [774 Reviews](#) | [Write a Review](#)



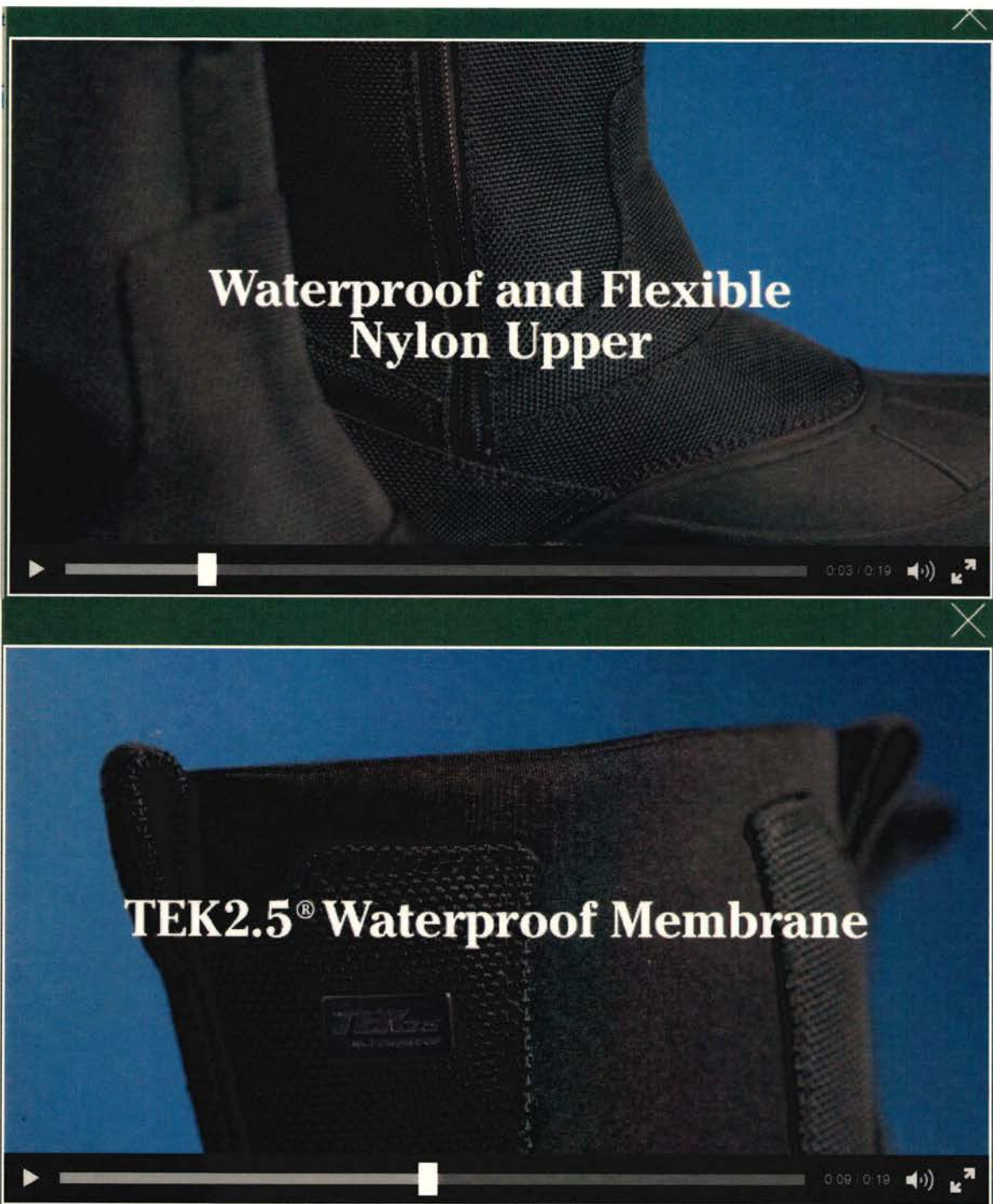
The individual product pages also feature short-form videos touting the Products “waterproof” qualities. For example, the individual page for the Men’s Storm Chaser Boots 5, Pull-On Zip maintains a video with an overlay touting the Product’s “Waterproof Nor’easter Nubuck Upper” and the “TEK2.5 Waterproof Membrane,” without qualification. Screenshots of the video are produced below:¹⁹

¹⁹ <https://www.llbean.com/llb/shop/123214?page=mens-storm-chaser-boot-5-pull-on-zip-mens>



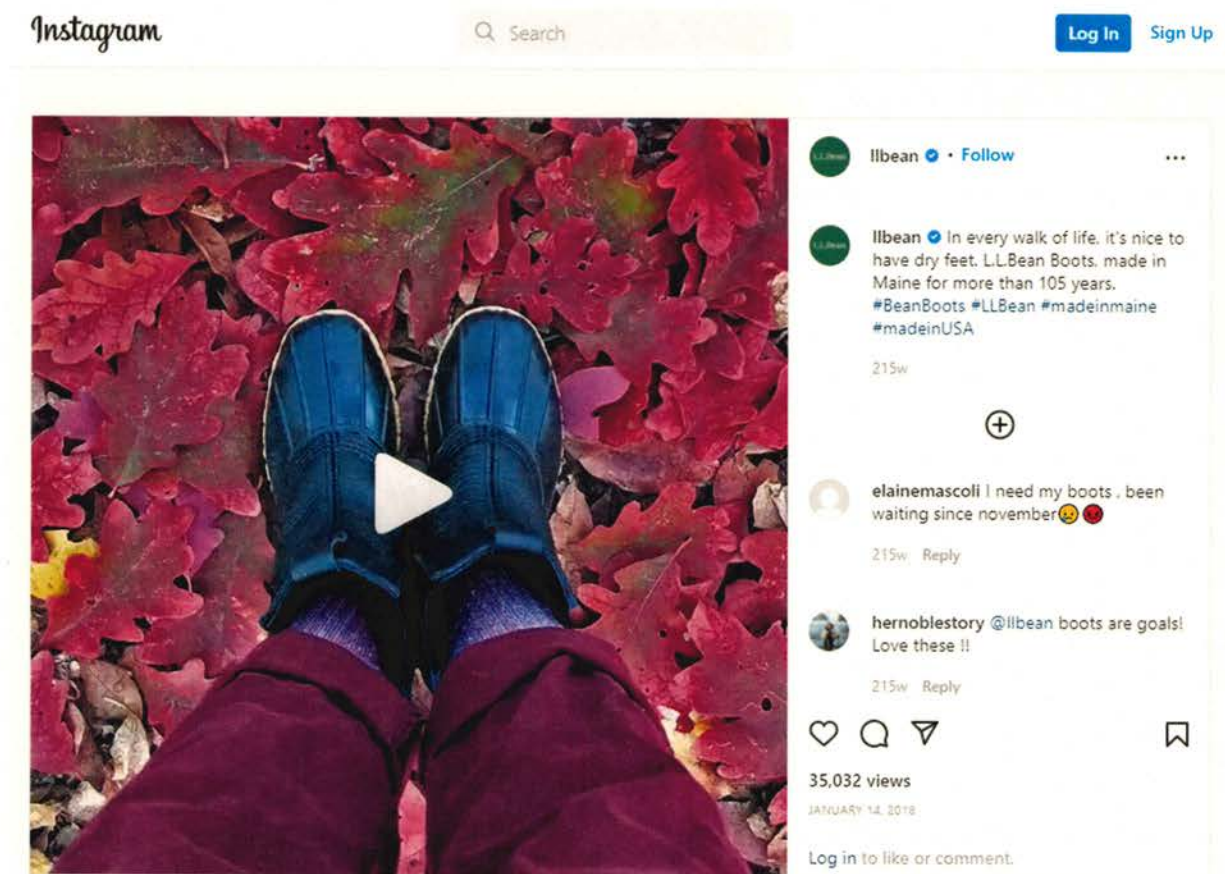
Similarly, the individual product page for the Men's Storm Chased Side Zip Boots, Ballistic Mesh, features a video stating the Product utilizes a "waterproof and flexible Nylon upper" and Tek2.5 Waterproof Membrane," without qualification.²⁰

²⁰ <https://www.llbean.com/llb/shop/121311?page=mens-storm-chaser-side-zip-boot-4-ballistic-mesh-mens>



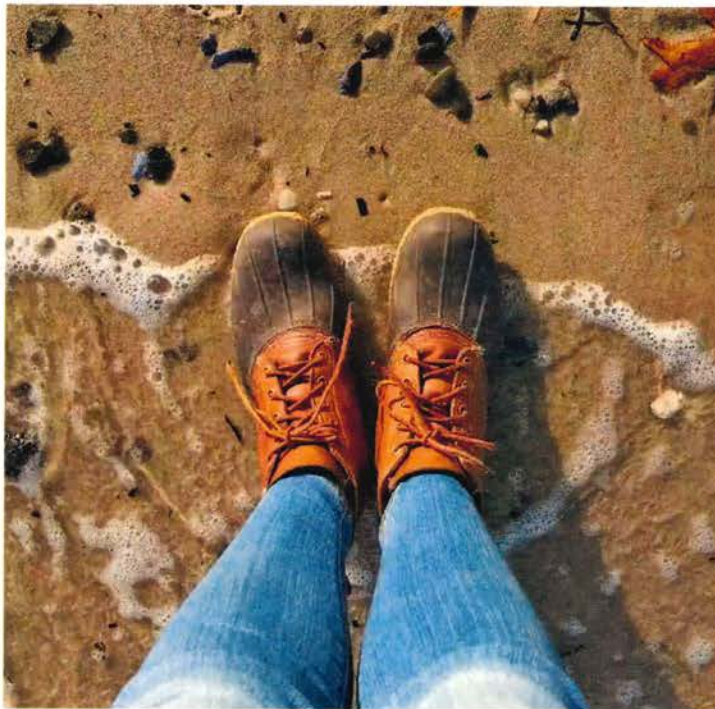
L.L.Bean also utilizes social media to bolster its image as a maker of Products suitable for rugged and wet environments. For example, the Company regularly uses its Instagram and Facebook accounts to market its boots as suitable for the elements and convey the message that Mislabelled Boots are waterproof, stating for example on Instagram, "In every walk of life, it's nice

to have dry feet,”²¹²² and that the products are “waterproof.” Screenshots of the social media posts showing the Products in various outdoor setting and conditions are reproduced below:



²¹ See <https://www.instagram.com/p/Bd8A5TLjDAQ/?hl=en>; <https://www.facebook.com/llbean/>.

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Michael K. Mahoney, Chief Legal & Compliance Officer
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L.L.Bean January 14, 2018

In every walk of life, it's nice to have dry feet.
L.L.Bean Boots, made in Maine for more than 105 years: <http://bit.ly/2oTLV9r>

See less

494 46 Comments 15K Views

Like Comment Share

Comments Hide

Oldest

Reply to Dan...

L.L.Bean
We stand behind our products, but it's not a lifetime Guarantee. If something isn't working or lasting as it should, we'll take it back. ^td.

Like Reply 4y

Cindy Drake
Love my bean boots!

Like Reply 4y

Dean Mandel
So when do our Men's size 16 wide get dry feet?

Like Reply 4y

L.L.Bean
Dean, I've forwarded your comments along to the proper department for their review. ^td

Like Reply 4y

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Michael K. Mahoney, Chief Legal & Compliance Officer
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L.L.Bean

November 1, 2021 · 🌐

Mix one warm and comfy coat, a handful of foliage and a dash of fresh mountain water, and you've got the recipe for a perfect fall day.

[#BeanOutsider](#) (📷: Instagram's @theloverspassport)



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Michael K. Mahoney, Chief Legal & Compliance Officer
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L.L.Bean

March 22, 2018 · 🌐

L.L.Bean Boots: Rain-repelling, triple-stitched and waterproof. Now that's a mouthful. [#BeanOutsider](#) (📷: Instagram's @ems622)



625

24 Comments 32 Shares

c. Print Media/Catalogues

L.L.Bean's representations and warranties regarding its "waterproof" Products also appear in its catalogues, mailed out regularly to consumers. For example, the Fall 2019 L.L.Bean catalogue claims that the Storm Chaser Boots Products are "Waterproof" and/or include the "TEK2.5® waterproof/breathable membrane" Copies of the catalogue are provided below:

NEW
Storm Chaser Footwear

F-H. For Women Redesigned to be sleeker and lighter.
Waterproof. Full-grain leather upper. Synthetic mesh padded collar for comfort. Mesh fabric lining for moisture management and fast drying.
TEK2.5® waterproof/breathable membrane inner lining. Molded EVA midsole. VertiGrip Rubber siped grooved-lugged tread outsole for traction on multiple surfaces. Zip Boot and Lace Boot are insulated with 200-gram PrimaLoft. Imported.

Whole and half sizes:
Medium B 6 to 10, 11.

F. SLIP-ON
Not in Taupe/Bean Boot Brown.
LX507154 \$109

G. ZIP BOOT
Only in Taupe/Bean Boot Brown.
LX507153 \$129

H. LACE BOOT
Not in Taupe/Bean Boot Brown.
LX507155 \$129

F
Toasted Coconut/
Bean Boot Brown

TEK

G
Taupe/Bean
Boot Brown

F
Black

H
Toasted Coconut/
Bean Boot Brown



Likewise, the same Fall 2019 catalogue represented and warranted that the Carrabassett Boots are “Waterproof” with the “TEK2.5 waterproof membrane inner lining,” providing the “protection you need to battle the elements”:

NEW
Carrabassett Boots

I. For Women All the comfort and protection you need to battle the elements – in a unique, beautiful style. Now with our new Zoned technology from PrimaLoft®, a breakthrough in insulation technology that gives just the right amount of insulation for all-day use. Waterproof full-grain leather upper. Lower portion of boot lining features brushed polyester fleece for wicking, fast drying and warmth. Toe cap insulated with PrimaLoft Aerogel for added toe warmth. **TEK2.5 waterproof membrane** inner lining. L.L.Bean's exclusive VertiGrip molded rubber chain-tread pattern outsole. Imported.

Whole and half sizes:
Medium B 6 to 10, 11.
LX507211 \$169

Dark Brown

TEK

PRIMALOFT



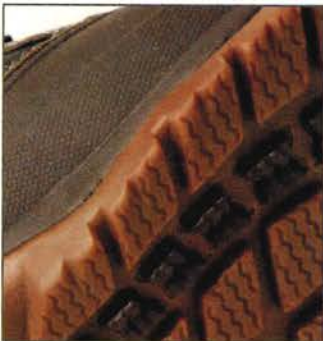
Similar representations and warranties appear in the Company's December 2019 Guide to Winter catalogue, as shown in the images below. The Company claims its Products, including the Storm Chaser line of boots are "waterproof"²³ or made with "waterproof full-grain leather upper with our exclusive TEK 2.5 waterproof, breathable lining" that "keeps feet dry":

²³ The company also claims the Women's Nordic Boot with Arctic Grip is waterproof.



NOR'EASTER LEATHER

Waterproof and stain-resistant protection



MOLDED RUBBER OUTSOLE

Multilugged treads offer superior traction



WATERPROOF & BREATHABLE

Our exclusive TEK 2.5 waterproof/breathable barrier keeps feet dry

NEW

Storm Chaser Boots

A-F. For Men and Women Redesigned with improved leather in Men's and a more lightweight feel in Women's. Our Storm Chaser Boots perform like high-tech waterproof boots but with the comfort of sneakers. Waterproof full-grain leather upper with our exclusive TEK2.5® waterproof, breathable lining. Lace and Pull-On feature 200-gram PrimaLoft insulation. Synthetic mesh padded collar for comfort. Fast-drying mesh fabric lining for moisture management. Molded EVA midsole adds sneaker-like comfort. Vertigrip rubber siped outsole for traction on multiple surfaces. Imported.

Whole and half sizes: Men's Medium D 7 to 12, 13, 14. Women's Medium B 6 to 10, 11.

MEN'S

Oakwood



A. SLIP-ON SHOE
 Dark Ash, Oakwood.
 HJ507173 \$109

Oakwood



B. LACE BOOT
 Dark Ash, Oakwood.
 HJ507372 \$139

Oakwood



C. PULL-ON ZIP BOOT
 Dark Ash, Oakwood.
 HJ507166 \$139

WOMEN'S

Toasted Coconut/
 Bean Boot Brown



D. SLIP-ON SHOE
 Toasted Coconut/Bean Boot Brown, Black (view online).
 HJ507154 \$109

Toasted Coconut/
 Bean Boot Brown



E. LACE BOOT
 Toasted Coconut/Bean Boot Brown, Black/Black (view online).
 HJ507155 \$129

Shale Gray/
 Black



F. PULL-ON ZIP BOOT
 Shale Gray/Black, Taupe/Bean Boot Brown.
 HJ507153 \$129

Taupe/
 Bean Boot Brown

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Michael K. Mahoney, Chief Legal & Compliance Officer
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Similarly, the 2019 Winter Holiday catalogue touts that its snow boots "... will keep you on the go in the worst weather" and represented and warranted that the Snowfield Boots, Tall are "Waterproof":

NEW Snowfield Boots

D, E. For Women Casual snow boots for everyday wear around town or commuting to work. Waterproof full-grain-leather foot and trim. Warm 200-gram PrimaLoft® insulation. Soft, moisture-wicking nylon/acrylic-fleece lining and faux-fur collar. Cushioned, removable EVA insole is covered in warm polyester fleece. EVA midsole and molded nylon shank. Imported.

Whole sizes: Medium B 6 to 11.

D. TALL WL510324 \$169

E. MID WL510322 \$159

The Perfect Snow Boots for All-Day Comfort

With PrimaLoft® insulation for warmth and our Comfort Ride midsole for cushioning comfort, these boots will keep you on the go in the worst weather.

D
Dark Plum

E
Black

Silver Birch

Carbon Navy

LUXURIOUS WARMTH
Soft fleece lining and faux-fur collar keep your feet cozy and dry

PRIMALOFT.

WATERPROOF
Full grain leather foot and trim keep you dry in snow and slush

STEADY TRACTION
Molded-rubber outsole with grooved tread grips on icy terrain

Call 1-800-221-4221 7am-11pm ET or Shop at lbean.com - 47

The Company uses its mailings to consumers to bolster its claims that with L.L.Bean products, its customers will be prepared for wet winter weather, and to further tout the TEK2.5 waterproof system. For example, the Company's 2020 Outwear catalogue highlights L.L.Bean's

“ready-for-anything outerwear,” in particular the Men’s and Women’s Storm Chaser “**high-tech waterproof boots**,” featuring “**waterproof**” “**NOR’EASTER LEATHER**” and a “**TEK 2.5 waterproof . . . membrane [that] seals out weather.**” Copies of the catalogue are provided below:





NOR'EASTER LEATHER
Sturdy upper is waterproof and stain resistant

Storm Chaser Boots


A-F. For Men and Women. Redesigned with improved leather for men and a lighter weight for Women. Storm Chasers perform like high-tech waterproof boots but with the comfort of sneakers. **waterproof full-grain leather upper with our exclusive TEK2.5® waterproof.** breathable lining. Lace and Pull-On feature 200-gram PrimaLoft insulation. Synthetic-mesh padded collar. Fast-drying mesh fabric lining for moisture management. Molded EVA midsole adds sneaker-like comfort. VertiGrip rubber siped outsole for traction on multiple surfaces. Imported.

Whole and half sizes: Men's Medium D 7 to 12, 13, 14. Women's Medium B 6 to 10, 11.

MEN'S	WOMEN'S
A. SLIP-ON SHOE Dark Ash, Oakwood, Shale Gray. RW507173 \$109	D. SLIP-ON SHOE Toasted Coconut/Bean Boot Brown, Black, Silvermoon/Carbon Navy, Silver Moon/Rich Berry. RW507154 \$109




Oakwood



Shale



Toasted Coconut/Bean Boot Brown



Black



Substantially similar representations and warranties appear in the Company's 2020 Guide to Winter catalogue, as shown in the images below. The Company claims its waterproof boots are suitable for "**ALL WEATHER & ALL TERRAIN**," combining comfort with the "**tough waterproof performance**" of "**TEK 2.5**" waterproofing:

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A man with a beard, wearing a colorful striped beanie and a dark quilted jacket, is smiling. In the background, a woman is partially visible, also wearing a beanie. The background shows a snowy landscape with trees and mountains.

L.L.Bean

Guide to Winter | FREE SHIPPING WITH \$50 PURCHASE

READY-FOR- ANYTHING OUTERWEAR

Plus cold-stopping boots and fun-inspiring gear for the whole family

PRIMALOFT.
Lace styles feature
200-gram PrimaLoft
insulation

**ALL
WEATHER
& ALL
TERRAIN**

Combining tough waterproof
performance with athletic shoe
cushioning, these boots provide
comfort and support wherever
the adventure takes you.

TEK2.5
Full-grain leather
upper with exclusive
TEK2.5 lining

HIGH-PILE FLEECE
Women's Lace Boots
have super-soft sherpa
fleece collar

B Dark Ash
(Men's)

F Toasted Coconut/
Bean Boot Brown
(Women's)

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Specifically with regard to the Storm Chaser Boots, the Company represents and warrants the Products will “**provid[e] the waterproof protection of rubber boots**” and “**keep[] you dry in rain and snow.**”

Storm Chaser Boots

A-H. For Men and Women Our Storm Chasers have a great fit, while still providing the waterproof protection of rubber boots and the comfort of sneakers. Waterproof full-grain leather upper with our exclusive TEK2.5® waterproof, breathable lining. All styles feature SolarCore foam underfoot to provide a warm barrier to keep you insulated from cold, wet surfaces. Boots contain 200-gram Primaloft® polyester insulation. Women's Lace features a sherpa fleece collar. Molded EVA midsole adds sneaker-like comfort. VertiGrip rubber siped outsole for traction. Imported.

Whole and half sizes: Men's Medium D 7 to 12, 13, 14. Women's Medium B 6 to 10, 11.

INSULATED FOR WARMTH
PrimaLoft (Boots only) and SolarCore foam keep your feet toasty warm

WATERPROOF & BREATHABLE
Exclusive TEK 2.5 membrane keeps you dry in rain and snow

MEN'S

Shale Gray
Oakwood

A. SLIP-ON SHOE
Dark Ash, Shale Gray, Oakwood.
HJ507173 \$109

B. LACE BOOT, PRIMALOFT
Dark Ash, Oakwood.
HJ507372 \$139

WOMEN'S

Silver Moon/
Carbon Navy
Silver Moon/
Rich Berry

E. SLIP-ON SHOE
Silver Moon/Carbon Navy, Silver Moon/Rich Berry, Toasted Coconut/Bean Boot Brown, Black (view online).
HJ507154 \$109

F. LACE BOOT, PRIMALOFT
Toasted Coconut/Bean Boot Brown, Black/Black (view online).
HJ507155 \$129

Rain Boot

d. Representations and Warranties Made by the Company's Authorized Retailers

Moreover, similar representations and warranties regarding the purported "waterproof" qualities of the Mislabeled Boots are repeated by authorized retailers. For example, L.L.Bean's Men's Storm Chaser Boots are advertised as "waterproof" on Zappos.com²⁴ and appear as a result in Zappos.com's "waterproof" filter:


²⁴ See <https://www.zappos.com/p/l-l-bean-storm-chaser-boot-5-pull-on-zip/product/9595474>.

L.L.Bean Storm Chaser Boot 5 Pull-On Zip

SHIPS FREE

\$139.00

Add To Cart



Product Information

L.L.Bean

- View the size chart
- Feel your feet sleeker and lighter wearing high-tech L.L.Bean™ Storm Chaser Boot 5 Pull-On Zip boots.
- Leather upper.
- Textile lining and insole.
- Removable synthetic insole.
- Molded toe bumper and waterproof heel counter.
- Polyester mesh that's waterproof, stain and salt resistant.
- Padded collar and tongue for comfort.
- Zipper closure.
- SolarCore insulation technology.
- Redesigned from the top down.
- Cushioned EVA midsole add flexibility.
- Siped rubber outsole features multi-lugged tread for slick, slippery surfaces.
- Imported.

L L Bean Storm Chasers Boots

203 items found

Have Feedback?

Login to see saved sizes
SIGN IN

Women's Size

Women's Width

Men's Size

Men's Width

Heel Height

Gender

Women (90)
Men (72)
Girls (35)
Boys (29)

Product Type

Clothing (142)
Shoes (57)
Accessories (3)
Pet Shop (1)

Brand

Your Selections

Waterproof

Women

Men

Black

Boys

Girls

Brown

20

14

374



L.L.Bean

Storm Chaser Boot 5 Lace Mesh

\$139.00

★★★★★ (1)



L.L.Bean

Storm Chaser Boot 5 Pull-On Zip

\$139.00

★★★★★ (250)



L.L.Bean

8" Bean Boots

\$139.00

★★★★★ (472)

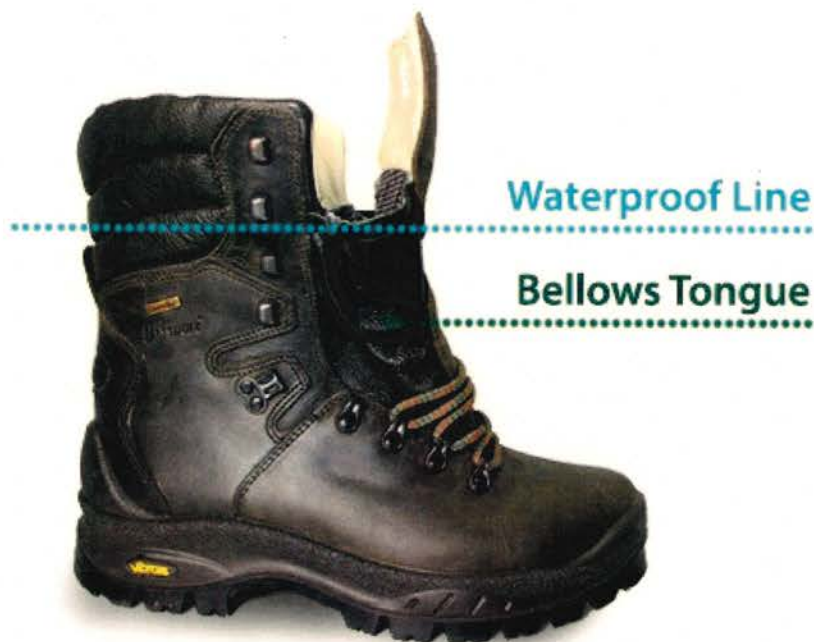
II. The Mislabeled Boots are not “Waterproof”

As you are aware, the term waterproof in footwear generally refers to a product that will not absorb or allow penetration of water. That means the water cannot seep in through the stitches and zippers, as well as between the tongue and the shoe upper. Significantly, the United States Court of International Trade looked toward several dictionary definitions to aid its determination of the common and commercial meaning of the term “waterproof.” *LF USA, Inc. v. United States*, 290 F. Supp. 3d 1339, 1344, n.3 (Ct. Int’l Trade Dec. 22, 2017) (“Therefore, waterproof footwear ***must protect the foot by not allowing water or other liquid to penetrate the shoe.***”) (emphasis added). The Court ultimately determined that because the footwear at issue “does not provide protection against water, oil grease, or chemicals or cold or inclement weather” it “does not fit into the definition of ‘waterproof footwear’” *Id.* at 1347.

Our investigation shows the Mislabeled Boots allow water to penetrate at their seams and, accordingly, are not “waterproof.” This water penetration is due to the fundamental design and construction of the Products, including the use of non-waterproof zipper closures and/or non-gusseted zippers and/or tongues, which allow water to easily penetrate the boots rendering the “waterproof” representations and warranties false and misleading. For example, the Company’s Storm Chaser Boots purchased by our client, which are represented and warranted as being “waterproof,” fails to utilize a waterproof gusset that backs the zipper. A gusset is a piece of material sewn to the upper of the boot, behind the zipper, attaching both sides of the boot and extending to the top of the boots. This design, presuming the gusset material is waterproof and seam sealed, allows for waterproofing protection up to the top of the boot where it joins to the upper. Below is an illustration:



Moreover, the Mislabeled Boots, including, for example, the Shearling-Lined Bean Boots, fail to employ a gusseted tongue or Bellows Tongue (let alone a waterproof one) which would prevent water from entering the interior of the boot. An illustration of a gusseted tongue is provided below:



Furthermore, our investigation indicates that the zippered Mislabeled Boots are constructed with YKK Corporation of America (“YKK”) zipper enclosures that are not waterproof, including the Storm Chaser model purchased by our client.²⁵ As shown below, none of the zipper enclosures used in the zippered Mislabeled Boots are “waterproof.”

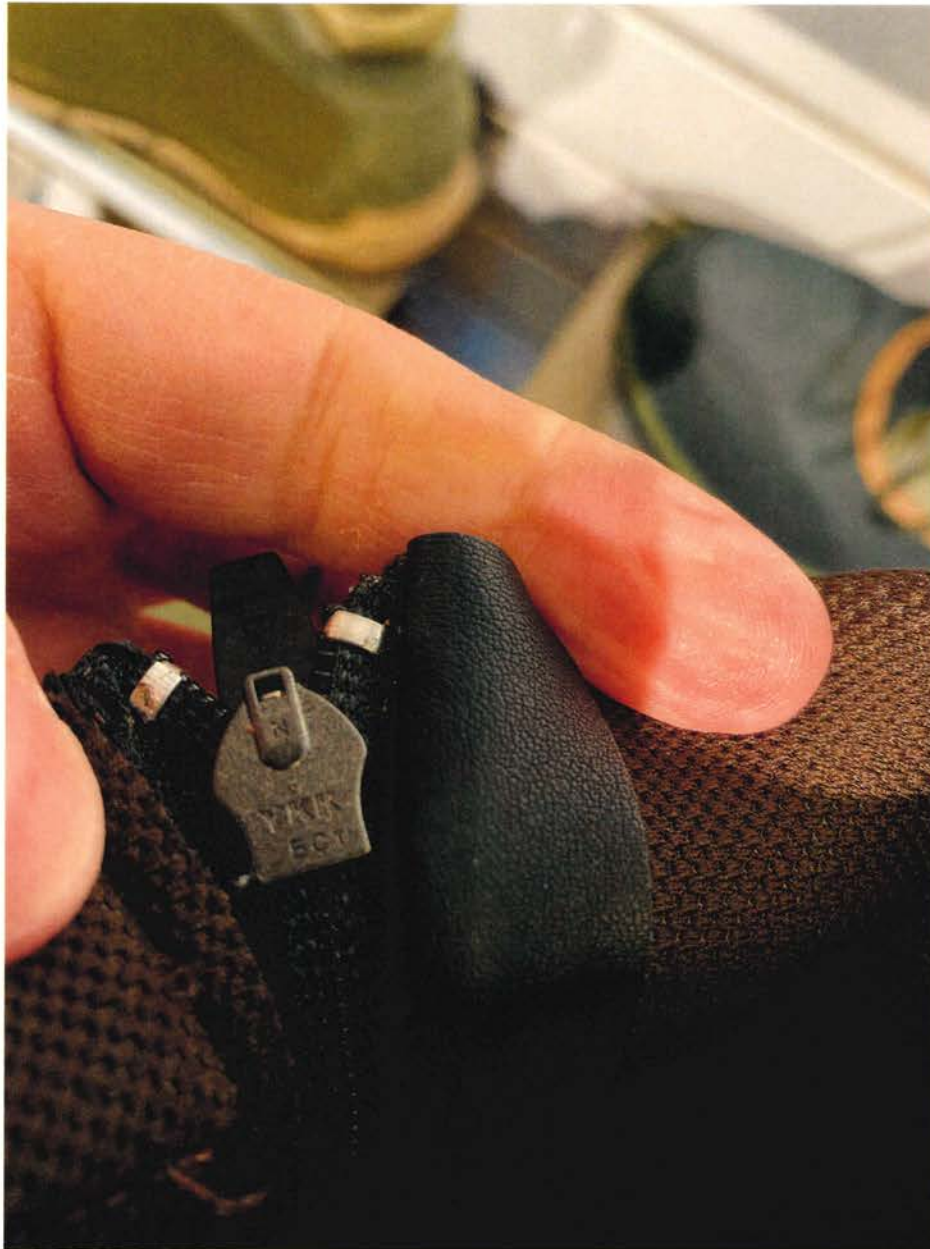
Based on our investigation, L.L.Bean uses YKK “5CNT” plastic coil zipper enclosures in the construction of its zippered Mislabeled Boots.²⁶ The following photograph shows the zipper on L.L.Bean’s Storm Chaser model.

²⁵ Other Mislabeled Boots may be manufactured with zipper enclosures from other manufacturers like YKK zipper enclosures that are also not waterproof.

²⁶ “5CN” refers to a particular size and locking system of plastic coil zipper. See YKK’s Fastening Catalog, available at https://ykk.meclib.jp/FasteningCatalogue/book/index.html#target/page_no=1; see also YKK’s Asia Slider Catalogue, p. 31, available at https://ykk.meclib.jp/Slider/book/#target/page_no=31. The “T” specifically refers to the version used on YKK’s “AquaGuard” zipper, which it states is only “water repellant,” not “waterproof” on its website. See [https://www.ykkfastening.com/products/search/detail.html?pdid1=AquaGuard\(R\)+\(Coil\)](https://www.ykkfastening.com/products/search/detail.html?pdid1=AquaGuard(R)+(Coil)) (“This zipper is water repellant, not waterproof/watertight”).



Likewise, the following photograph shows the zipper on L.L.Bean's Rugged Cozy boots.



YKK's "5CNT" zippers, however, are not "waterproof." Specifically, YKK's "AQUA" catalog which is attached hereto as Exhibit 2, lists YKK's comprehensive line of "waterproof" and "water-resistant" zipper enclosures, and only includes the Aquaseal®, Flexseal® or Proseal® as being truly "waterproof." YKK uses "5CN" zippers in its standard plastic coil zipper, which is used on a wide variety of products and is not waterproof,²⁷ as well as Aurolite® and Metallion® zippers. None of these zippers are categorized by YKK as being waterproof. For example, YKK's "AQUA" catalog does not include the Aurolite® or Metallion® product lines. Nor does YKK advertise the Aurolite® zippers as being "waterproof." Rather, YKK advertises Aurolite® zippers

²⁷ See <https://www.ykkfastening.com/products/search/detail.html?pdid1=Coil+Zipper+Standard>.

as intended to be used for its iridescent color effect, and the Aurolite® catalog's "Instructions for use" specifically indicates that it is "Not recommended for use on footwear. There is a possibility of particles getting in between the elements" *See* Exhibit 3. Similarly, the Metallion® zippers are not advertised as being "waterproof" or for use in footwear, but are advertised as primarily used to create a shiny or matte metallic look. *See* Exhibit 4.

Further, at least two models of the Mislabeled Boots are constructed with a covered zipper with a visible seam, as shown in the following copy of a photograph of a Women's Snowfield Waterproof Boot, Tall.²⁸



Although YKK markets certain zippers as being covered, with a polyurethane finish to provide some degree of water resistance, this treatment does not create a "waterproof" zipper. In particular, the treatment used in YKK's Aquacheat® or AquaGuard® zippers provide, at most, only a water repellant zipper. YKK notes in marketing materials that the Aquacheat® zipper provides only a water repellant look and that the AquaGuard® zipper "is water repellent, not waterproof/watertight."²⁹

²⁸ *See* https://poshmark.com/listing/LL-Bean-Womens-Snowfield-Insulated-Tall-Waterproof-Winter-Boot-Size-8-61f5b83f074d24303a289ce2?utm_source=gdm&utm_campaign=9886005321&campaign_id=9886005321&ad_partner=google&gskid=aud-946532829540%3Apla-1187535741595&gclid=431634791276&ggid=103371076954&gid=c&g_network=g&enable_guest_buy_flow=true&gclid=EA1a1QobChMIn6fTz56j9gIVkZOzCh1sZAUuEAQYAYABEgLKP_D_BwE.

²⁹ *See* Exhibit 2; [https://www.ykkfastening.com/products/search/detail.html?pdid1=AquaGuard\(R\)+\(Coil\)](https://www.ykkfastening.com/products/search/detail.html?pdid1=AquaGuard(R)+(Coil)).

In contrast, the only YKK zippers categorized as being “waterproof” or “water tight” are Aquaseal®, Flexseal® and Proseal®. *See* Exhibit 2. Each of these zippers is subject to individual water pressure testing to evaluate for water tightness under various levels of water pressure.³⁰

In fact, several high-end hiking boots have incorporated the waterproof Flexseal® zipper or other manufacturers’³¹ waterproof zippers into their footwear. For example, the Scarpa Phantom Tech boot and Phantom 8000 HD³² utilize “Flexseal®” zippers to create a waterproof closure on its outer cover.

None of the zippered Mislabeled Boots, however, use an Aquaseal®, Flexseal® or Proseal® zipper. In fact, YKK does not use “5CN” zippers in the manufacture of either its Aquaseal®, Flexseal® or Proseal® product lines so they clearly were not the zippers used for any Mislabeled Boots with YKK plastic coil zippers. *See* YKK’s product catalogs for its Aquaseal®, Flexseal® and Proseal® zippers indicating that “5CN” zippers are not used in their construction, attached hereto as Exhibit 2 (indicating that the Proseal® uses “4TZ,” “8TZ,” and “12TZ” zippers while Aquaseal® uses “5VFWN” and “10VFWB” zippers).³³ Accordingly, the zippers used for the Mislabeled Boots purchased Plaintiffs or any other consumer who purchased Mislabeled Boots constructed with a YKK zipper did not utilize a “waterproof” zipper.

Regardless, Defendant knew or should have been aware of the misleading nature of the “waterproof” representations. It is self-evident L.L.Bean knows and understands how to manufacture a waterproof zippered boot and/or boots with a waterproof gusseted tongue. The Company touts that its founder, Leon Leonwood Bean, was inspired to create a waterproof boot when he returned from a hunting trip in the Maine wilderness with soaking wet cold feet.^{34 35} In fact, Mr. Bean patented one of the first boot designs, for the purpose of making a boot waterproof, by utilizing a gusseted tongue that “is secured to the vamp and between the side pieces of the top.” A copy of the patent is provided below:

³⁰ *See* <https://www.ykkfastening.com/water-protective/support/testing/>.

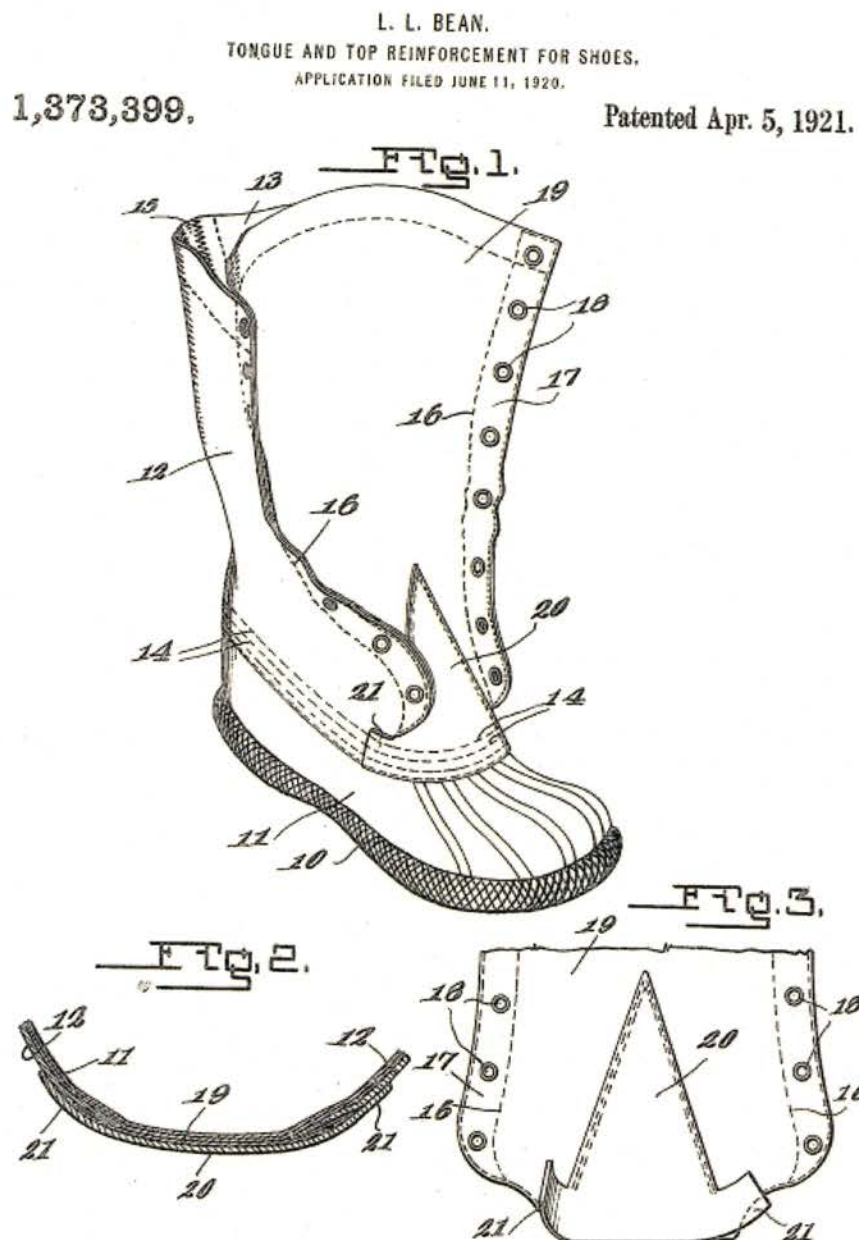
³¹ <http://tizip.com/>

³² <https://www.scarpa.com/phantom-8000-s19>

³³ *See also* <https://www.ykkfastening.com/water-protective/flexseal/> (indicating Flexseal® uses “85SEY” zippers).

³⁴ <https://www.newenglandhistoricalsociety.com/l-l-bean-merchant-of-the-maine-woods/>

³⁵ <https://www.llbean.com/llb/shop/518296?nav=F4t518296-518318>



Moreover, the Company's classic Bean Boots are still manufactured today with a fully gusseted tongue, which are represented and warranted to be "WATERPROOF." Yet the Company utilizes a non-gusseted tongue on certain Misabeled Boots such as the Women's Shearling-Lined Bean Boots and still warrants they are waterproof:

Classic Bean Boot (gusseted)

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Michael K. Mahoney, Chief Legal & Compliance Officer
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Women's Shearling-Lined Bean Boots (non-gusseted tongue)



With respect to zipper gussets, we note that the Company has manufactured (and to this day still manufactures) some boots with an integrated gusset that fully extends to the top of the boot. As noted above, this design may prevent water that infiltrates the zipper from seeping into the boot, presuming the gusset material is truly waterproof. For example, the Company utilized a full zipper gusset on prior version of Women's Storm Chaser zip and on its Women's Waterproof

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Nordic Casual Boots,³⁶ Women's Bethel Waterproof Boots,³⁷ and Women's Insulated Commuter Boots (illustrated below).³⁸

Predecessor Storm Chaser Models



³⁶ <https://www.llbean.com/llb/shop/83161?page=womens-waterproof-nordic-casual-boots-zip>

³⁷ <https://www.llbean.com/llb/shop/112635?page=bethel-boot-insulated-waterproof-zip-womens>

³⁸ <https://www.llbean.com/llb/shop/88391?page=womens-insulated-commuter-boots>

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Women's Waterproof Nordic Casual Boots



Women's Bethel Waterproof Boot

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Women's Insulated Commuter Boots



Thus, despite knowing how to manufacture a truly waterproof boot and regularly distinguishing between “waterproof” and “water repellant” boots, L.L.Bean knowingly and intentionally represented and warranted the Mislabeled Boots as being “waterproof” when it knew such statements were false, as none of the Mislabeled Boots are constructed with either a waterproof zipper or full waterproof gussets reinforcing the zipper and/or the tongue. As such, L.L.Bean cannot label or advertise the Mislabeled Boots that have neither a waterproof zipper nor a full waterproof gusset as “waterproof.”

Further, L.L.Bean admitted, albeit buried in a consumer blog on the Company’s website, that the Products are not waterproof, despite representations to the contrary. For example, on January 1, 2020, when a consumer posted a complaint concerning the Company’s Storm Chaser model on L.L.Bean’s webpage stating “**Not waterproof zipper lets water inside shoe. . . . Useless boot if it can’t keep feet dry,**” an L.L.Bean representative responded by stating that the Product’s zippers are not waterproof. A screen shot of the admission is reproduced below:



January 1, 2020

Not Waterproof

Size Purchased: 13

Fit - Length: Slightly small

Fit - Width: Slightly narrow

Not waterproof zipper lets water inside shoe. Wear like a tennis shoe very comfy. Useless boot if it can't keep feet dry.

Response from L.L.Bean

By L.L.Bean Customer Satisfaction Team

January 4, 2020

We are sorry that the boots didn't perform as you expected. The zippers on these boots is not waterproof. The boots are waterproof up to the zipper base. You are more than welcome to return the boots to us.

Similar admissions are made by “Product Specialist” on the Company’s live chat application “Chat with an Expert,” when queried about the protection levels offered. A screenshot of an inquiry and admission is provided below:

help.llbean.com/system/templates/chat/llbeanhelp/index.html?ver=v11...

≡ L.L.Bean HELP ×

Kathleen

Hello, Juan.

Kathleen

What is the item number, please?

Sorry, is the Women's Storm Chaser Boots 5, Zip waterproof.

Item # TA507153

Kathleen

Construction

- Waterproofed full-grain-leather upper and exclusive TEK2.5® waterproof membrane keep feet dry.

Kathleen

You can view the full item details if you scroll down on the page, it provides some great information about the boots.

Is the zipper on the side of the boot waterproof as well?

Kathleen

I will transfer you to a Product Specialist.
One moment, please.

You have been transferred to queue PSS

You are now chatting with Ed

Ed

Hello, thanks for waiting. One moment please and I'll check for you.

Ed

Closures: 3 1/2" nylon zipper on arch side of shaft.
(Zip opening is backed but not gusseted; will not be waterproof above zipper base).

OK thanks.

Ed

You're welcome!


Moreover, the materiality of labeling the Products as waterproof is obvious. Indeed, similar claims have been held to be literally false. See *W.L. Gore & Assocs. v. Totes Inc.*, 1992 U.S. Dist. LEXIS 4129, *15, 23 (D. Del. 1992) (holding “the definitional distinctions between water resistant and **waterproof**, found in an ordinary English language dictionary, are usually known by the general public. The defendant’s use of the term ‘**waterproof**’ as a representation, one with an accepted common sense definition as to quality, when its product does not conform to the generally accepted definition is an unfair and deceptive practice.”).

Our client Ms. Lenzi (a resident of New York) purchased the Women's Storm Chaser Boots from L.L.Bean in New York. The boots were misrepresented and promoted with "waterproof" representations and warranties in the same or similar ways as illustrated above. After purchasing the Product and later experiencing water absorption into the interior of those boots, our client learned that the "waterproof" representations and warranties which induced the purchase were false and/or misleading. Had our client known the truth that the boots were not "waterproof," despite their labeling to the contrary, she would not have purchased them.

Ms. Lenzi's experiences are not unique. Numerous other consumers have likewise complained that they paid a premium price for the Mislabeled Boots due to the Company's claims they were waterproof, when in fact they are not. For example, consumers have stated on the "customer reviews" section of the Company's website (among other comments) that the Storm Chaser boots:

- "Not waterproof at all . . . water gets in easily . . ."
- "leaks like a sieve . . . put the side zipper [i]n a trickle of water and it leaked right in. No chance in a puddle . . ."
- "The side zip . . . compromise[s] the waterproof. If you stepped in water over the zipper, some would get in."
- "the zip will leak water in if the boot is submerged"

Screenshots of the complaints are provided below:




February 18, 2021

Poor quality Men's boots

Size Purchased: 9 1/2
Fit - Length: Slightly small
Fit - Width: Somewhat narrow

Not waterproof at all, poor quality, water gets in easily, bad quality boots

[Post a Comment](#)



January 27, 2020

leaks like a sieve

Size Purchased: 12
Fit - Length: Slightly small
Fit - Width: Somewhat narrow

put the side zipper on a trickle of water and it leaked right in. No chance in a puddle was told no shipping charge but i have an invoice for 0.00. I hope that's not real

[Post a Comment](#)



January 27, 2021

Great boot

Size Purchased: 11 1/2

Fit - Length: Somewhat small

Fit - Width: Slightly narrow

Wore these on a January 2021 trip to Fairbanks AK. I found them to be warm and comfortable. The temp was between minus 10 and minus 20 during my trip. I used them on a snow machine tour and a dog sled tour. I felt that they were just a tiny bit short and might have exchanged for a half size bigger if I had time. They worked out fine anyway. My feet were warm the entire time in spite of a health condition that gives me cold feet. **The side zip is great, but does compromise the waterproof. If you stepped in water over the zipper, some would get in. For me, I must keep my sox pulled up to prevent skin abrasion by the top collar. That is more a function of my ankle than the boot. All in all, I give them an excellent rating.**



[Post a Comment](#)



February 22, 2022

Great warm winter boots

Size Purchased: 11 1/2

Fit - Width: True to size

Purchased a pair well over year ago. These are great snow boots. They fit well and required no break in for me. The zip makes them quick on and off, though the zip will leak water in if the boot is submerged. The first couple of times I wore them, I thought there was an ankle rub. Turned out to be a little stiff cloth tag with a rough edge. A little very careful work with a pen knife and the tag and stitches were gone along with the rub. I wore them at 18 below in Fairbanks Alaska and was perfectly comfortable. Highly recommended.



[Post a Comment](#)

Similarly, customers have commented on the Company's website that the Snowfield boots fails to prevent water and/or slush from penetrating the boots. In particular, one customer noted the boots are "Warm but **NOT waterproof**," finding "[t]he placement of **the side zipper allows slush to get inside the boot and make your foot wet**. I'm more than disappointed that they are not waterproof as advertised." Another customer similarly observed, "**Not waterproof . . .**

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. They are warm but **I wanted waterproof snow boots! These do not deliver on expectations, or function as advertised.**” Screenshots of the complaints are provided below:³⁹



January 21, 2022

Warm but NOT waterproof

Size Purchased: 8

Fit - Width: True to size

Comfy, warm, but not waterproof. The placement of the side zipper allows slush to get inside the boot and make your foot wet. I'm more than disappointed that they are not waterproof as advertised.

[Post a Comment](#)



February 2, 2022

These are not snow boots

Size Purchased: 8

Not waterproof, no traction in snow. They are warm but I wanted waterproof snow boots! These do not deliver on expectations, or function as advertised.

Response from L.L.Bean

February 11, 2022

By L.L.Bean Customer Satisfaction Team

The Snowfield Waterproof Boots are constructed using a breathable, waterproof membrane, and waterproof due to the materials used. If your feet sweat, it might be interpreted as a leaky boot.

[Post a Comment](#)

Similarly, a customer commented on the Company's website that the Women's Waterproof Nordic Boots with Artic Grip are "NOT Waterproof" and were "completely soaked" after playing in the snow:



December 2, 2019

Warm, Comfy, NOT Waterproof

Size Purchased: 7 1/2

Fit - Length: Slightly small

Fit - Width: Slightly narrow

Bought these for my 11-year old daughter. They're lovely to wear to school and keep her warm on dry days, but after one hour of playing in the snow the leather and lining were completely soaked through--definitely NOT waterproof! I'm back shopping for snow boots, and feeling very grumpy b/c I thought these would do the job.

³⁹ Remarkably, in response to the comment, an L.L.Bean representative again claimed the boots are "waterproof due to the materials used" and dismissed the customer's concerns, writing, "If your feet sweat, it might be interpreted as a leaky boot."

However, as the Company is aware, the zipper components on Products are not waterproof. Nor are they backed by a waterproof gusset. Yet, L.L.Bean represents and warrants the Mislabeled Boots as waterproof without any disclaimer regarding the limitations of the Product's non-gusseted tongues or zippers. This is in stark contrast to the Company's competitors, who disclose their product's limitations. For example, Steven Madden, Ltd. line of Blondo products notes that their "standard zipper[s]" are "not waterproof." Screenshots of Blondo's website are provided below:⁴⁰



WATERPROOF

All Blondo® footwear is authenticated by the AquaProtect® seal which certifies the use of high quality waterproof leathers and synthetic materials with seam-sealed construction. This process provides a superior protection against water infiltration and the harmful effects of calcium/salt. Standard zippers not waterproof.

III. Violations of New York Law

We believe that the business practice discussed herein constitutes a breach of your express and/or implied warranties to our client and other Product purchasers (U.C.C. §§ 2-313, 2-314). It also gives rise to claims under common law for negligence, unjust enrichment, fraudulent concealment and nondisclosure, and other statutory and common law claims. Besides any common-law and/or other statutory remedies.

In addition to the violations above, L.L.Bean's mislabeling of the Products, as described herein, is a deceptive practice in violation of New York Gen. Bus. Law § 349 and false advertising in violation of New York Gen. Bus. Law § 350. New York Gen. Bus. Law § 349(h) provides for the recovery of "actual damages or fifty dollars, whichever is greater" and New York Gen. Bus. Law § 350-e(3) provides for the recovery of "actual damages or five hundred dollars, whichever is greater" for each violation, and each statute provides for the recovery of attorneys' fees to a prevailing consumer. Therefore, L.L.Bean would be subject to substantial class-wide statutory damages of \$550.00 for each of the Mislabeled Boots sold in New York upon a showing of even **one penny** of price premium over its competitors whose products are not similarly misbranded. See *In re Scotts EZ Seed Litigation*, 2017 WL 3396433, **5-6, 11 (S.D.N.Y., August 8, 2017) (denying summary judgement for defendant and sustaining for a class-wide trial the class claims for \$550 per unit sold under New York GBL §§ 349 and 350); see also *Kurtz v. Kimberly-Clark Corporation*, 321 F.R.D. 482, 526 (E.D.N.Y. 2017) (in certifying a class under GBL §§ 349 and 350, the court agreed that the opinion of the Supreme Court of the United States in *Shady Grove Orthopedic Associates, P.A. v. Allstate Ins. Co.*, 559 U.S. 393 (2010) would permit damages up to \$550 per unit). Moreover, because of the mislabeling discussed herein, we have no doubt that we will be able to show a price premium attributable to the mislabeling through the use of expert analysis that readily supports injury and damages for Ms. Watson and classes of similarly situated persons. See, e.g., *In re Kind LLC "Healthy & All Nat. " Litig.*, 337 F.R.D. 581, 603-608 (S.D.N.Y.

⁴⁰ <https://blondo.com/pages/technology>

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2021). Furthermore, a plaintiff need not show pecuniary harm to make a claim under § 349 in particular. *McCrobie v. Palisades Acquisition XVI, LLC*, 359 F. Supp.3d 239, 255-256 (W.D.N.Y. 2019).

IV. Demand for Relief

Thus, in accord with applicable laws requiring pre-suit demand and notice, our client demands that within thirty (30) days of receipt of this letter, L.L.Bean takes the following steps to cure the issues complained of herein:

1. Provide our client with an accounting of L.L.Bean's sales and profits (both gross and net profits) in New York for the Mislabeled Boots within the past four (4) years;
2. Refrain from marketing, labelling, and selling the Mislabeled Boots as being "waterproof" or using words to that effect; and
3. Pay damages and restitution to our client, and to all other putative class members nationwide, as well as attorneys' fees and expenses.

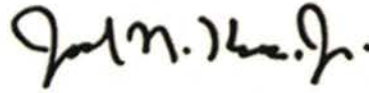
Furthermore, we demand that you preserve all documents and other evidence which refer or relate to any of the above-described practices including, but not limited to, the following:

1. All documents concerning the design, development and/or testing of the Mislabeled Boots;
2. All documents concerning the advertisement, promotion of, marketing or sale of the Mislabeled Boots;
3. All documents concerning communications with suppliers of the materials and/or zipper closures utilized in the Mislabeled Boots;
4. All documents concerning the sales volume of the Mislabeled Boots (in units and/or dollars), and the revenues derived therefrom; and
5. All documents concerning the identities of Class members who purchased the Mislabeled Boots.

If L.L.Bean contends that any statement in this letter is inaccurate in any respect, please provide us with your contention and supporting documents immediately upon receipt of this letter, but in no event later than 30 days from the date of receipt. If we do not receive a response from you, we will assume that L.L.Bean has no interest in addressing the matters complained of herein, and our client may file a complaint against L.L.Bean seeking damages, restitution, injunctive and/or other relief for herself and similarly situated persons for the Company's breaches of its express warranties as well as the statutory and common law claims described herein.

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Sincerely,

A handwritten signature in black ink, appearing to read "J.N. Kravec, Jr.", written in a cursive style.

Joseph N. Kravec, Jr.
(Admitted in NY and PA)

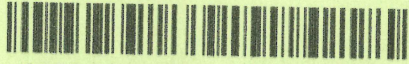
and

Antonio Vozzolo (Admitted in NY and NJ)
VOZZOLO, LLC

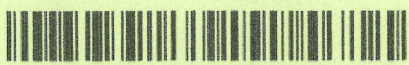
Enclosures

cc: Linda Lenzi (via Electronic Mail w/o enc.)

EXHIBIT 2

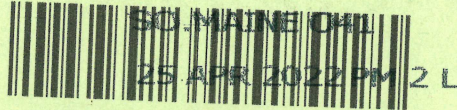
SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>x <i>Brent Aisenault</i></p> <p>B. Received by (Printed Name) <i>Brent Aisenault</i> C. Date of Delivery</p>	
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px;"> L.L. Bean International c/o Michael K. Mahoney 10 Casco Street Freeport, ME 04033 </div> <div style="text-align: center;">  9590 9402 7250 1284 2681 00 </div>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article <i>7019 1640 0001 6993 3641</i></p>		<p>3. Service Type</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery </div> <div> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery </div> </div>	

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>x <i>Brent Aisenault</i></p> <p>B. Received by (Printed Name) <i>Brent Aisenault</i> C. Date of Delivery</p>	
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px;"> Michael K. Mahoney Chief Legal & Compliance Officer L.L. Bean, Inc. 15 Casco Street Freeport, ME 04033 </div> <div style="text-align: center;">  9590 9402 7250 1284 2680 70 </div>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from service label) <i>7019 1640 0001 6993 3665</i></p>		<p>3. Service Type</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery </div> <div> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery </div> </div>	

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

USPS TRACKING #



9590 9402 7250 1284 2681 00

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

Feinstein Doyle Payne & Kravec, LLC
429 Fourth Avenue
Law & Finance Building, Suite 1300
Pittsburgh, PA 15219

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

-150525

LL Bean

USPS TRACKING #



9590 9402 7250 1284 2680 70

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

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Law & Finance Building, Suite 1300
Pittsburgh, PA 15219

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Postage & Fees Paid
USPS
Permit No. G-10

-150525

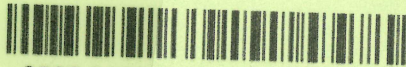
LL Bean

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Stephen Smith
President and CEO
L.L. Bean, Inc.
15 Casco Street
Freeport, ME 04033



9590 9402 7250 1284 2680 94

2. Article Number (Transfer from service label)

7019 1640 0001 6993 3658

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

APR 25 2022

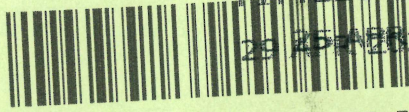
3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Delivery

USPS TRACKING#



PITTSBURGH PA 150

2025-08-20 2022 812

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9590 9402 7250 1284 2680 94

United States
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• Sender: Please print your name, address, and ZIP+4® in this box•

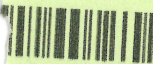
Feinstein Doyle Payne & Kravec, LLC
429 Fourth Avenue
Law & Finance Building, Suite 1300
Pittsburgh, PA 15219

LL Bean

SECTION

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acson
343-3070



4 2680 87

0001 6993 3689

7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *My Burnett*

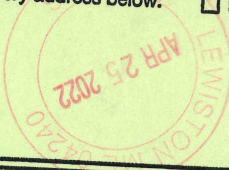
☒ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

04-25-22

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No



3. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | |
| <input type="checkbox"/> Restricted Delivery | |

(over \$500)

Domestic Return Receipt

USPS TRACKING #



9590 9402 7250 1284 2680 87

**United States
Postal Service**

• Sender: Please print your name, address, &

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Law & Finance Building,
Pittsburgh, PA 15219



EXHIBIT 3

Joseph N. Kravec, Jr.

From: Joseph N. Kravec, Jr.
Sent: Tuesday, May 9, 2023 3:56 PM
To: Brooks, Meegan
Cc: Sheridan, Stephanie; Anthony Vozzolo - Vozzolo LLC (avozzolo@vozzolo.com); Salimi, Beeba; Meuti, Michael
Subject: RE: Lenzi v. LL Bean follow-up
Attachments: 2023-02-17 Auto Referral to Mediation.pdf

Meegan,

We are engaged in informal confidential settlement discussions. Neither party is obligated to produce any information to the other at this time. As such, your demand that we provide proof of purchase immediately is not well taken as was your side's embracement of cartoons and other mockery of our client by a few ill-informed individuals in Maine that seem to have nothing better to do. That said, I have already stated that "If we can resolve this [notification] issue, we are willing to exchange information about Plaintiff's purchase as long as LL Bean commits to give us the unit sales numbers we previously requested." This is a mutual exchange of information that each side says they need to move the ball forward toward settlement. If your client is serious about settling at this time, we'd think such a mutual exchange would not be a problem.

As for the information provided to date about the changes LL Bean made after receiving our demand letter, we'd note that much of that was already known to us as reflected in our Complaint. For the rest, the four one-sentence statements you provided in your April 24th email do not include all the details. For example, you have not confirmed if and when all "waterproof" labeling stamped on the boots themselves has been discontinued. Nor do we know the timing of any of the changes related, including when non-LL Bean retailers and third-party websites were informed to stop advertising the boots as waterproof, who these parties are and whether they actually stopped the waterproof advertising.

But, as I indicated in my prior email, there remains the threshold issue of providing publicly accessible notice that LL Bean will provide a refund for the Products at issue in our Complaint, whether as part of a clarifying statement to the Refund Policy or otherwise. The point of my prior email is that if notification is a non-starter for your client, then doing anything further toward settlement at this time (such as exchanging Plaintiff purchase and LL Bean unit sales information) would not be productive since we would not do an individual settlement without some agreeable form of public notice.

Frankly, I think each side here has concerns that a good mediator would be best suited to help get us past and move us toward a resolution. I know I have brought the issue of mediation up before and your client has not been interested. However, the Court has already referred this case to mediation (see attached) which must be completed by 12 weeks after the Rule 16 conference. Thus, we are going to have to do a mediation. The only question is does your client want to do that now or after a motion to dismiss is decided. We are willing to do either. Please let us know what LL Bean wants to do.

Joe

Joseph N. Kravec, Jr., Esq.*
Partner
FEINSTEIN DOYLE PAYNE & KRAVEC, LLC
Law & Finance Building, 13th Floor
429 Fourth Avenue

Pittsburgh, PA 15219
1-412-281-8400
1-412-281-1007 (FAX)
www.fdpklaw.com

NY Office:
29 Broadway Ave, 24th Floor
New York, NY 10006-3205
1-212-952-0014

*Admitted in PA and NY

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From: Brooks, Meegan <MBrooks@beneschlaw.com>
Sent: Monday, May 8, 2023 11:18 PM
To: Joseph N. Kravec, Jr. <JKravec@fdpklaw.com>
Cc: Sheridan, Stephanie <SSheridan@beneschlaw.com>; Anthony Vozzolo - Vozzolo LLC (avozzolo@vozzolo.com) <avozzolo@vozzolo.com>; Salimi, Beeba <BSalimi@beneschlaw.com>; Meuti, Michael <MMeuti@beneschlaw.com>
Subject: RE: Lenzi v. LL Bean follow-up

Hi Joe,

Your email has conflated two separate issues.

Our message referenced an issue we raised earlier that you had not responded to, and since it is a threshold issue completely separate and apart from our settlement discussions, it must, necessarily, be addressed first. We routinely obtain proof of purchase from opposing counsel at the outset of cases (whether or not we are considering settlement); here, we've asked several times, and your resistance to providing such basic information is alarming, since it suggests you may not have the basis for the allegations in the Complaint. Our client shares our concern.

L.L.Bean has been incredibly engaged in this early negotiation process, having already provided extensive information about changes to its practices, additional changes it would be willing to consider, and sales data for the item at issue in the Complaint that Plaintiff purportedly purchased. Plaintiff, on the other hand, has not provided us with *anything* in return, despite us having identified a slew of information we would like to see, including testing, surveys, etc. Especially when considering the amount of time, expense, and resources L.L.Bean has put into working on this matter in good faith up to this point, its simple request for confirmation that Plaintiff made a purchase is imminently reasonable.

Please let us know if you have a proof of purchase, and send it immediately.

Thanks,
Meegan


vCard

Meegan B. Brooks, CIPP/US
(she/her/hers)
Partner | Litigation

Benesch Friedlander Coplan & Aronoff LLP

t: 628.600.2232 | MBrooks@beneschlaw.com

www.beneschlaw.com

100 Pine Street, Suite 3100, San Francisco, CA 94111

Confidentiality Notice to Incorrect Addressee: www.beneschlaw.com/confidentialitynotice

From: Joseph N. Kravec, Jr. <JKravec@fdpklaw.com>

Sent: Monday, May 8, 2023 12:04 PM

To: Brooks, Meegan <MBrooks@beneschlaw.com>

Cc: Sheridan, Stephanie <SSheridan@beneschlaw.com>; Anthony Vozzolo - Vozzolo LLC (avozzolo@vozzolo.com)

<avozzolo@vozzolo.com>; Salimi, Beeba <BSalimi@beneschlaw.com>; Meuti, Michael <MMeuti@beneschlaw.com>

Subject: RE: Lenzi v. LL Bean follow-up

Meegan,

Thank you for your email. As I previously indicated, the threshold issue for us to doing any individual settlement is that consumers who wish to get a refund for any of the Products identified in our Complaint ("Products") can and are generally notified of this right (not just when they ask for a refund). We suggested that the consumer notification could simply be a clarification statement added to LL Bean's Refund Policy included everywhere where LL Bean's Refund Policy appears making it clear refunds will be given to anyone who wants to return the Products. We also asked that all LL Bean personnel be advised of this refund option and be directed not to refuse a refund request for the Products as long as the Product is returned. You advised that while LL Bean may let its personnel know, LL Bean is unwilling to provide any consumer facing notification of its refund for the Products, whether by a public clarification of its Refund Policy or otherwise. This is a fundamental problem for us. We are happy to discuss this issue further with you to see if we can reach a mutually acceptable solution. However, if we are unable to resolve this issue, then we do not see an individual settlement that we'd be amenable to at this time.

If we can resolve this issue, we are willing to exchange information about Plaintiff's purchase as long as LL Bean commits to give us the unit sales numbers we previously requested.

Joe

Joseph N. Kravec, Jr., Esq.*

Partner

FEINSTEIN DOYLE PAYNE & KRAVEC, LLC

Law & Finance Building, 13th Floor

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From: Brooks, Meegan <MBrooks@beneschlaw.com>

Sent: Thursday, May 4, 2023 2:41 PM

To: Joseph N. Kravec, Jr. <JKravec@fdpklaw.com>

Cc: Sheridan, Stephanie <[SSheridan@beneschlaw.com](mailto:ssheridan@beneschlaw.com)>; Anthony Vozzolo - Vozzolo LLC (avozzolo@vozzolo.com) <avozzolo@vozzolo.com>; Salimi, Beeba <BSalimi@beneschlaw.com>; Meuti, Michael <MMeuti@beneschlaw.com>

Subject: RE: Lenzi v. LL Bean follow-up

Hi Joe,

Just a quick note to follow up on this email from last week. This is a threshold issue for us, so we'll need to see a proof of purchase before we'd recommend that our client share anything else.

Thanks,
Meegan



vCard

Meegan B. Brooks, CIPP/US

(she/her/hers)

Partner | Litigation

Benesch Friedlander Coplan & Aronoff LLP

t: 628.600.2232 | MBrooks@beneschlaw.com

www.beneschlaw.com

100 Pine Street, Suite 3100, San Francisco, CA 94111

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From: Brooks, Meegan <MBrooks@beneschlaw.com>

Sent: Wednesday, April 26, 2023 1:38 PM

To: Joseph N. Kravec, Jr. <JKravec@fdpklaw.com>

Cc: Sheridan, Stephanie <[SSheridan@beneschlaw.com](mailto:ssheridan@beneschlaw.com)>; Anthony Vozzolo - Vozzolo LLC (avozzolo@vozzolo.com) <avozzolo@vozzolo.com>; Salimi, Beeba <BSalimi@beneschlaw.com>; Meuti, Michael <MMeuti@beneschlaw.com>

Subject: RE: Lenzi v. LL Bean follow-up

Hi Joe,

Can you send us proof of Plaintiff's purchase, or let us know if her name has changed? LLB hasn't been able to locate Plaintiff's purchase, so that would help move the ball along as we're exchanging information.

Thanks,
Meegan



vCard

Meegan B. Brooks, CIPP/US

(she/her/hers)

Partner | Litigation

Benesch Friedlander Coplan & Aronoff LLP

t: 628.600.2232 | MBrooks@beneschlaw.com

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EXHIBIT 4

EXHIBIT 5

FREE SHIPPING with \$50 Purchase - or - FREE with the L.L.Bean Mastercard [Details](#)

A magnifying glass icon followed by the text "What can we help you find?" inside a search bar.

[< CURRENT STORIES](#)

FREEPORT, ME, MARCH 16, 2020

Our COVID-19 Response (UPDATED)

To our valued customers,

As a family-owned, values-driven company, nothing is more important during these challenging times than the health and well-being of our employees, customers and greater communities. For that reason, we are closing all U.S. retail locations beginning midnight tonight through March 29. This will include our Flagship stores in Freeport, marking only the fifth time in our company's history that this location will close (and the first time ever for more than 24 hours). All store employees will receive pay and benefits during the closure.

By making this decision now, we can better ensure the safety of our employees and customers, as we all continue to navigate a rapidly evolving situation and follow the CDC's guidelines around the importance of social distancing.

L.L.Bean was founded 108 years ago on the simple but profound principle that we're at our best when we're outside. Today, more than ever, we believe the outdoors is still the best place to find perspective and connection – and to help us all feel better. A short walk outside or looking out the window to see signs of spring can be an important counterbalance to the pace of news and information we're receiving.

While our retail locations will be closed for the next two weeks, our business remains open. Our customers can still find what they need on [llbean.com](#) or by phone. If you have questions about your order, our products, or just want to hear a friendly voice, call us at 1-800-441-5713. Rest assured, our teams working across operations – including our home agent service representatives – are following strict CDC guidelines, including practicing safe working distances and adhering to additional cleaning protocols.

During this period, our social channels will focus on simple ideas and images that inspire and remind us of the restorative power of the outdoors. If you have outdoor moments that you would like to share with us, we'd love to hear from you.

Thank you for being a valued L.L.Bean customer. On behalf of our 5,000 employees world-wide, we send our best wishes for your health and well-being as we push through this unprecedented challenge together.

Steve Smith

L.L.Bean President and CEO

[^ Back to Top](#)

Customer Service



Where's my order?



Shipping



Guarantee



Discounts



L.L.Bean® Mastercard®



About Us



Stores and Events



L.L.Bean for Business



Gifts



Explore the Outdoors



Sign Up for Email

Enjoy exclusive offers, the latest on products, and new ways to get outdoors. [Details](#)

SIGN UP



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EXHIBIT 6

Business



Coronavirus News

We've compiled all the latest stories about the coronavirus pandemic here so you can find them easily. We've also compiled a list of informational resources that can guide you to more coronavirus information.

Area malls closing due to coronavirus containment efforts

WXXI News | By Randy Gorbman
Published March 18, 2020 at 4:54 PM EDT



WILMORITE

Rochester area shopping malls will be closing Thursday evening, in compliance with a directive from Governor Andrew Cuomo.

Eastview, The Mall at Greece Ridge and The Marketplace Mall will close at 7:00pm Thursday in compliance with Cuomo's order.

The malls will remain closed until further notice. This includes all common areas and use of mall for social visits and exercising.

Stores and restaurants with exterior entrances may remain open. Eastview Commons, Marketplace Commons and Pittsford Plaza may have stores and restaurants that remain open.

Wilmorite officials say you should call ahead for operating hours.

Phone numbers are listed on mall websites. And watch websites and our social media for re-opening information.

Tags Business Coronavirus



Randy Gorbman
Randy Gorbman is WXXI's director of news and public affairs. Randy manages the day-to-day operations of WXXI News on radio, television, and online.
[See stories by Randy Gorbman](#)

More News

Weather is to blame for roughly 90% of Georgia's peach crop being destroyed

1 hour ago



Today's headlines for May 30

1 hour ago



New York's fertility rate continues to drop

3 hours ago

Memorial Day launches what's expected to be an extremely busy summer travel season

1 hour ago



Remembering those who gave their lives in service to their country

16 hours ago



WXXI Business Report: A new branding campaign for Xerox

May 29, 2023



RPD investigates two early morning homicides that happened on Monday

May 29, 2023



Homage to the (town) square: Welcome to Buffalo AKG

May 26, 2023



Jodie Foster is just a mom who confronts cannibals

May 24, 2023



RPO presented first sensory-friendly concert Sunday

May 24, 2023

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